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DIVISION 1

PROCEDURAL RULES

735-001-0020
Issuance of Final Orders in Contested Cases

(1) An administrative law judge (ALJ) is authorized to issue a final order without first issuing a proposed order in a contested case hearing conducted for the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) except under the following circumstances:

(a) DMV provides written notice to the Chief Administrative Law Judge of the Office of Administrative Hearings that the ALJs conducting hearings for DMV must issue proposed orders as set forth in OAR 137-003-0645 for the types of actions specified in the notice; or

(b) Prior to the commencement of a contested case hearing DMV provides written notice to the ALJ conducting the hearing and to the party(s) that the ALJ must issue a proposed order as set forth in OAR 137-003-0645.

(2) Exceptions to a proposed order issued under section (1) of this rule shall be filed with the ALJ within 20 days of the issuance and mailing date of the proposed order. The administrative law judge will review the exceptions and issue a written response or revised proposed order to the party and to DMV as set forth in OAR 137-003-0650, unless DMV requests the ALJ to conduct a further hearing under OAR 137-003-0655.

(3) If no exceptions are filed, a proposed order issued by an ALJ becomes the final order 30 days from the issuance and mailing date of the proposed order, unless DMV provides notice in writing to the party(s) and the ALJ that DMV will issue the final order. If exceptions to the proposed order are filed, the proposed order or revised order becomes the final order 30 days after the issuance and mailing date of the written response to exceptions or the issuance and mailing date of the revised proposed order, unless DMV gives notice to the party(s) and the ALJ that DMV will issue the final order. If DMV issues the final order, it will follow the procedures set forth in OAR 137-003-0655.

Stat. Auth.: ORS 802.010 & 813.410
Stats. Implemented ORS 183.470
Hist.: MV 11-1984, f. & ef. 8-31-84; March 1988, Renumbered from 735-001-0010; DMV 23-2004, f. & cert. ef. 11-17-04

735-001-0040
DMV Representation at Contested Case Hearings

(1) This rule authorizes an agency officer or employee to represent DMV at a contested case hearing as described in this rule. Except for a hearing described under ORS 183.430(2), the Attorney General has granted authority to DMV to appoint officers or employees to represent DMV at contested case hearings regarding:

(a) Suspension, revocation and cancellation of driving privileges;

(b) Non-issuance of driver licenses and identification cards;

(c) Suspension or cancellation of identification cards;

(d) Suspension, revocation, cancellation, probation and denial of vehicle dealer certificates;

(e) Suspension, revocation, cancellation and denial of dismantler certificates;

(f) Suspension, revocation, denial and refusal to issue or renew a towing company certificate;

(g) Revocation and denial of a vehicle transporter certificate;

(h) Civil penalties assessed on unlicensed dealers and on licensed dealers who violate the laws and rules relating to the sale of vehicles under the authority of ORS 822.009 and OAR chapter 735, division 150;

(i) Civil penalties for violations related to dismantlers assessed under authority of ORS 822.137 and OAR chapter 735, division 152;

(j) Cancellation of vehicle title and registration under authority of ORS 809.090 and 809.095;

(k) Implied consent cases under ORS 813.410 and OAR 735, division 90;

(l) Denial, suspension or revocation of a commercial driving school certificate; and

(m) Denial, suspension or revocation of a commercial driver training instructor certificate.

(2) The administrative law judge shall not allow an agency representative appearing under section (1) of this rule to present legal argument as defined in this rule.

(a) "Legal Argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(3) If the administrative law judge determines that statements or objections made by an agency representative appearing under section (1) involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the agency representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

(4) An agency representative appearing under section (1) must read and be familiar with the most recently published Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at http://www.doj.state.or.us.

Stat. Auth.: ORS 183.415, 183.450, 183.452, 184.616, 814.619 & 802.010
Stats. Implemented: ORS 183.450
Hist.: MV 16-1988, f. & cert. ef. 5-18-88; MV 3-1991, f. & cert. ef. 5-16-91, Renumbered from 735-070-0100; MV 9-1992, f. & cert. ef. 8-17-92; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 16-2014, f. & cert. ef. 12-19-14

735-001-0050
Administrative Review

In addition to those circumstances specified in ORS 809.140, Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will provide an administrative review of a suspension, revocation, or cancellation action for:

(1) Failure to install or maintain installation of an ignition interlock device under ORS 813.602;

(2) Failure to complete and pass a security threat assessment required for a hazardous materials endorsement from the federal Transportation Security Administration (TSA) or being assessed as a security threat by TSA under ORS 807.173;

(3) Notice of violating of an out-of-service order ORS 809.413(7);

(4) Notification from the Federal Motor Carrier Safety Administration that a person is disqualified from operating a commercial motor vehicle as an imminent hazard under ORS 809.413(8);

(5) Failure to submit proof of medical qualification to operate a commercial motor vehicle under ORS 807.100(2);

(6) Failure to pay a judgment under ORS 809.415(1);

(7) A lapse in making future financial responsibility filings under ORS 809.415(3)(c) or 807.240(3)(e);

(8) Notification from the superintendent of a hospital under ORS 807.700;

(9) A request by a school superintendent or a school district board under ORS 339.254;

(10) Notice that a person under 18 years of age has withdrawn from school under ORS 339.257;

(11) Notification from a program approved by AMH that it has withdrawn its recommendation for a person to be issued a hardship or probationary permit; and

(12) Notification from a judge that he or she has withdrawn the recommendation for a person to be issued a hardship or probationary permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.440
Stats. Implemented: ORS 809.440
Hist.: MV 27-1991, f. & cert. ef. 12-16-91; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 10-2010, f. & cert. ef. 5-18-10; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 2-2013, f. & cert. ef. 3-22-13

735-001-0062
DMV/DOC Program for an Inmate Obtaining a Driver License or Identification Card Prior to Release

(1) The Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) and the Oregon Department of Corrections (DOC) have established, through interagency agreement, the following program to help an inmate obtain a driver license or identification card prior to his or her release from custody.

(2) For purposes of this rule, the term "inmate" means any person under the supervision of the DOC and who is not on parole, probation or post-prison supervision status.

(3) Notwithstanding OAR 735-062-0016, DMV may issue a renewal or replacement driver license or an identification card containing the last photograph of the inmate on file with DMV. The photograph on file must not be older than nine years and two months. DMV will issue as follows:

(a) A replacement driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance;

(b) A renewal driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance and whose driver license is within the allotted time for early renewal as described in OAR 735-062-0090(4) or has been expired for less than one year; or

(c) An original, renewal or replacement identification card to an inmate:

(A) Who is not eligible for driving privileges under sections (4), (7) or (8) of this rule;

(B) Whose previous driver license has been expired for more than one year;

(C) Whose driving privileges are suspended, revoked or cancelled; or

(D) Who has never been issued or does not currently qualify for a driver license under ORS 807.040.

(4) DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS), to determine if the inmate's driving privileges are suspended, revoked, cancelled or otherwise not valid in any other jurisdiction. An inmate whose driving privileges are not valid in any other jurisdiction is not eligible to replace or renew driving privileges in Oregon.

(5) DOC may complete an application packet for each eligible inmate within no more than 180 days prior to the inmate's date of release from DOC custody. The application packet must include:

(a) A completed Valid with Previous Photo DL/ID Card (VWPP) Application, DMV Form 735-171C, signed by the inmate. The application must include the inmate's Social Security Number (SSN). DMV must verify, or have previously verified, the SSN with the Social Security Administration, as required by OAR 735-062-0005;

(b) Proof of legal name as required by OAR 735-062-0014;

(c) Proof of legal presence as required by OAR 735-062-0015 and the interagency agreement; and

(d) Proof of date of birth and identity as required by OAR 735-062-0020.

(6) On the application DOC must certify:

(a) That the copies of the documents submitted to meet the requirements of section (5) of this rule are true copies of the original documents and that the documents pertain to the inmate for whom DOC is submitting the VWPP application; and

(b) That the inmate will be living in Oregon when released and the address provided on the application meets the requirements for residence or mailing address as outlined in the interagency agreement.

(7) An inmate is not eligible for driving privileges, under ORS 807.060(4) or (5), and DMV will not replace or renew a driver license, if on the VWPP Application the inmate:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?";

(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?"; or

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(8) An inmate who is eligible to renew his or her driving privileges, and is or will be 50 years of age or older at the time his or her driving privileges expire, must meet the requirements of OAR 735-062-0060. As the inmate will not be at a DMV field office for the vision screening, DOC must provide a vision examination form, Certificate of Vision, DMV Form 735-24, completed by a licensed ophthalmologist or optometrist with the VWPP application. If no Certificate of Vision form is included or the inmate does not meet the vision standards set forth in 735-062-0050, the inmate is only eligible for an identification card.

(9) When an inmate's driving privileges are valid (not suspended, revoked, cancelled or expired more than one year) the inmate must surrender driving privileges in order to be eligible for an identification card. A completed Surrender of Driving Privilege(s), DMV Form 735-7206, must be included with the VWPP application

of any inmate who is surrendering driving privileges. A person who surrenders driving privileges must pass all tests and pay all fees associated with an original driver license to regain driving privileges at a later date.

(10) DOC will pay the fee listed in ORS 807.370 or 807.410, as appropriate, for each inmate issued a driver license or identification card in a manner outlined in the interagency agreement.

(11) When an inmate's driver license or identification card issued pursuant to this rule is renewed or replaced, he or she must provide proof of citizenship or permanent legal residency as required by OAR 735-062-0015, unless DMV records show the person has previously provided such proof.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.087 & 807.110

Stats. Implemented: ORS 802.087

Hist.: DMV 16-2012, f. 12-21-12, cert. ef. 1-1-13; DMV 5-2013, f. & cert. ef. 5-3-13; DMV 3-2015, f. 6-19-15, cert. ef. 7-1-15

735-001-0100

Refunds

DMV will issue a refund of moneys received in excess of the amount legally due:

(1) If DMV determines a person has made an overpayment of more than $5; or

(2) Upon written request from a person who made an overpayment, or the person's legal representative, if the request is submitted to DMV within three years of the date that DMV received the overpayment.

Stat. Auth.: ORS 184.616, 184.619, 293.445, 802.010, 802.110

Stats. Implemented: ORS 293.445, 802.110

Hist.: DMV 5-2006, f. & cert. ef. 5-25-06

DIVISION 10

PROCESSING AND RECORDS

735-010-0000
What is Used to Calculate the Actual Cost of Providing a Public Record

(1) ORS 192.440 provides that any public body may establish fees reasonably calculated to reimburse it for actual costs in making records available to the public, government agencies or commercial firms.

(2) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will use the following to calculate the actual cost of providing a public record:

(a) All computer costs. This includes programmer/analyst services, and time to run and produce the required record;

(b) All time spent by staff to produce a record. This includes phone time, data entry, and search efforts;

(c) A pro-rata share of DMV's overhead expense; and

(d) All materials which are used to provide a record.

Stat. Auth.: ORS 192.440, 283.110, 802.010, 802.220 & 802.230

Stats. Implemented: ORS 802.230

Hist.: MV 5-1982, f. 1-12-82, ef. 2-1-82; March 1988, Renumbered from 735-032-0020; MV 9-1983, f. 10-5-83, ef. 10-15-83; MV 10-1984, f. 6-29-84, ef. 7-1-84; DMV 6-2012, f. & cert. ef. 6-27-12

735-010-0005
Purpose of Record Requests Rules

In 1997, new laws were enacted that prohibit the disclosure of personal information obtained in connection with a motor vehicle record (ORS 802.175 through 802.191). ORS 802.179 sets out specific exemptions from the disclosure prohibition. OAR 735-010-0010 through 735-010-0040 establish criteria and fees for the receipt of motor vehicle records as set out in ORS 802.175 through 802.270. OAR 735-010-0200 through 735-010-0230 establish criteria for the receipt of personal information obtained in connection with motor vehicle records.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179 & 802.183

Stats. Implemented: ORS 802.175 - 802.270

Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98

735-010-0008
Definitions

As used in division 10 rules, the following definitions apply:

(1) "Bulk distribution" means the distribution of surveys, marketing materials and solicitations, regardless of the medium used for distribution, including but not limited to:

(a) Material distributed to a targeted group of people to tell them about the suitability or quality of a product or service;

(b) Market research which involves contacting individuals;

(c) Nonprofit entities seeking donations of labor, products or money; or

(d) Political material designed to encourage membership in a political organization, or to gain support for individuals seeking election to public office, or solicit money or labor for a political campaign or election.

(2) "Business entity" means a corporation, organization, firm, association, partnership, governmental agency, lawful commercial enterprise or other legal entity, other than an individual.

(3) "Business address" means the physical address of the place in which or from which a business entity operates.

(4) "Business name" is the name, including an abbreviation or acronym, by which a business is designated in official records and under which it conducts business.

(5) "Conducting business with DMV" includes any business with DMV that results in the creation of a customer record or change to an existing customer record.

(6) "Confidential Information" includes:

(a) A person's photograph, social security number, mother's maiden name and place of birth;

(b) Records of driver licenses, identification cards or vehicles used for undercover purposes by law enforcement, parole and probation agencies;

(c) The residence address of an individual whose address is protected by law;

(d) Medical information; and

(e) Drug test information.

(7) "County of use" means the county in which a vehicle is primarily used, when that county is:

(a) Other than the county of the owner's residence or business address; and

(b) Other than the county of the vehicle address provided to DMV.

(8) "Customer number" means the distinguishing number assigned by DMV to each individual or business entity for which a customer record has been created.

(9) "Customer record" means the computer record created by DMV at the time an individual or business entity first does business with DMV.

(10) "Descriptive address" means information sufficient to identify the location of a residence or business entity if there is no actual street or rural route address, or to explain where a person lives if the person has no fixed residence.

(11) "Disseminator" means a person whose primary business function is the sale or distribution of information, including personal information in response to an individual record inquiry from a person who is authorized by DMV to receive the information under ORS 802.179.

(12) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.

(13) "Employment address" means the address of the public agency employing a police officer or eligible public employee as provided in ORS 802.250.

(14) "Full legal name" means an individual's first name, middle name(s), and last or surname, without use of initials or nicknames.

(15) "Insurance support organization," as used in ORS 802.179(6), means a person who regularly engages in assembling or collecting information about a natural person for the primary purpose of providing the information to an insurer or insurance agent in connection with claims investigation activities, antifraud activities, underwriting or rating. "Insurance support organization" does not include an insurer, an insurance agent, a governmental institution, medical care institution or medical professional.

(16) "Legitimate business" means a lawful business enterprise operating in compliance with federal, state and local law.

(17) "Mailing address" means an address other than an actual residence or business address to which a person or business entity mail delivered, including a post office box or address of a service provider.

(18) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card, vehicle title or vehicle registration issued by DMV. "Motor vehicle record" does not mean a record pertaining to a manufactured structure.

(19) "Person" means an individual, an organization or an entity but does not include the State of Oregon or any agency thereof.

(20) "Personal information" means the following information that identifies an individual:

(a) Driver license, driver permit, identification card or customer number;

(b) Name;

(c) Address (excluding five-digit zip code); and

(d) Telephone number.

(21) "Primary residence" means the state, jurisdiction or physical location where an individual lives, during any 12-month period, more than he or she lives elsewhere during that period.

(22) "Records list" means a list of driver or vehicle records compiled by selecting records that meet one or more general criteria, where the criteria is not specific to any one person or vehicle. Records lists would include such things as a list of vehicle records of a given manufacturer or a list of licensed drivers over the age of 65. A records list would not include records that were selected by a specific identifier, such as an individual's driver license number or a vehicle's registration plate number.

(23) "Registration address" means the vehicle address, if one is provided or if a vehicle address is not provided:

(a) The vehicle owner's residence address if the owner is an individual; or

(b) The vehicle owner's, business address if the owner is other than an individual. Some examples may include a business, school district, organization or church.

(24) "Residence address" means the actual address at which an individual resides more than he or she lives elsewhere during a 12-month period. If an individual resides an equal amount of time at two or more addresses, the individual must determine which address is his or her residence address and use that as the residence address in conducting business with DMV. A residence address must not be that of a service provider, except for purposes of titling or registering a vehicle owned by the service provider or obtaining an Oregon driver license, driver permit or identification card by the service provider.

(25) "Service Provider" means a business which facilitates the collection or delivery of mail, or businesses that provide vehicle registration services for another party. A mail service is considered to be a Service Provider.

(26) "Vehicle address" means the residence or business address where the vehicle is primarily housed, or from where the vehicle is primarily dispatched when different than the actual residence or business address of the owner.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179, 802.183, 803.370 & 807.050

Stats. Implemented: ORS 802.175 - 802.270, 803.220, 803.370, 807.050, 807.420, 807.560, 807.725 & 821.080

Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98; DMV 6-1999, f. & cert. ef. 12-17-99; DMV 10-2000, f. & cert. ef. 9-21-00; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 29-2005, f. 12-14-05, cert. ef. 1-1-06; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 6-2012, f. & cert. ef. 6-27-12

735-010-0010
Exclusions From and Requirements to Obtain a Public Record

(1) DMV will not disclose confidential information except as provided by law.

(2) DMV will only disclose personal information, as defined in OAR 735-010-0008, if the record is ordered by the individual whose record it is or if the person ordering the record qualifies to receive personal information. Otherwise the record will be sanitized with the personal information removed.

(3) Fees for records must be paid in advance or billed to an account, except:

(a) If a fee is not set by law, DMV reserves the right to waive a charge for records when the cost to collect the fee would be more than the cost to provide a record;

(b) DMV may provide information without charge on an exchange basis, to other states, federal agencies, or appropriate designee, or motor vehicles associations if DMV, in turn, is not charged for information it receives; or

(c) DMV will accept a purchase order number if the purchaser is a government agency.

(4) A request for a public record must allow DMV a reasonable period of time to provide the record so that DMV's activities or operations are not unduly disrupted.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 283.110, 802.010, 802.220, 802.230 & 802.530

Stats. Implemented: ORS 802.220

Hist.: MV 10-1984, f. 6-29-84, ef. 7-1-84; MV 25-1986, f. 12-31-86, ef. 1-1-87; DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98; DMV 6-2012, f. & cert. ef. 6-27-12

735-010-0020
Procedures for Record Inquiry or TOD Filing Fee Accounts

(1) As used in this rule, "Account Bond" means a bond or undertaking issued by an authorized surety insurer to guarantee payment of the account holder's Record Inquiry Account or TOD (Transitional Ownership Document) Filing Fee Account established in accordance with OAR 735-020-0040 in the amount set forth in sections (7) and (8) of this rule.

(2) DMV will establish a Record Inquiry Account for any person or business entity who:

(a) Submits a completed Application for Record Inquiry Account, including the required account qualification certification and supporting documents;

(b) DMV determines to be qualified to receive personal information after reviewing the Application for Record Inquiry Account, qualification certification and supporting document; and

(c) Pays a $70 non-refundable fee to cover the cost of processing the account application.

(3) The department will establish a TOD Filing Fee Account, used for billing purposes only, for any person who:

(a) Submits a completed Application for TOD Filing Fee Account; and

(b) Pays a $70 non-refundable fee to cover the cost of processing the account application.

(4) In addition to the requirements of sections (2) and (3) of this rule, if the applicant is a dealer of new or used motor vehicles, the applicant must be certified as a vehicle dealer by DMV under ORS Chapter 822 before a Record Inquiry Account or TOD Filing Fee Account may be established.

(5) An invoice summarizing the billings for the prior month will be sent monthly to each account holder.

(6) The account holder must return the remittance advice copy of the invoice when making payment on the account.

(7) An Account Bond is required for all Record Inquiry Accounts and TOD Filing Fee Accounts carrying outstanding balances of $500 or more as follows:

(a) When a Record Inquiry Account or TOD Filing Fee Account has an outstanding balance of $500 or more for three consecutive months. The Account Bond amount will be the greater of $1,500 or three times the average outstanding monthly balance for the past year, or since the date the account was opened, whichever period is shorter;

(b) When DMV determines the required Account Bond amount, DMV will notify the account holder and it is the account holder's responsibility to obtain a bond in the amount specified by DMV; and

(c) The bond must be filed by the account holder, with DMV, within 30 days of notification by DMV.

(8) An Account Bond in the minimum sum of $500 may be required for all Record Inquiry Accounts or TOD Filing Fee Accounts carrying outstanding balances of less than $500 when:

(a) DMV becomes aware that the account holder has a poor credit rating; or

(b) The account holder has been delinquent in paying the account charges, for over 60 days, at least three times since the account was opened.

(9) DMV may immediately close any Record Inquiry Account or TOD Filing Fee Account if any of the following events occur:

(a) An account has been delinquent for 120 days and the account is not paid within 15 days of written notification of payment demand by DMV;

(b) No transactions are recorded in the account in a one-year period;

(c) An account holder fails to obtain an Account Bond in accordance with section (7) or (8) of this rule;

(d) An account becomes delinquent in excess of the amount of the Account Bond securing the account;

(e) The Record Inquiry Account holder no longer qualifies to receive personal information from motor vehicle records;

(f) The Record Inquiry Account holder fails to immediately notify the department of a change in qualification status for receipt of personal information;

(g) DMV receives notice that the account holder's Account Bond has been canceled or has expired;

(h) DMV receives a notice of bankruptcy for the account holder; or

(i) The account holder submits a written request that DMV close their account.

(10) Any account that has been closed under section (9) of this rule cannot be reopened. A new account must be established by:

(a) Submitting a new account application and meeting all requirements of sections (2) through (4) of this rule, including payment of any fees required under section (2) or (3) of this rule; and

(b) Payment, in full, of any previously delinquent account balances.

(11) Account holders are responsible for attorney fees and any other fees incurred by DMV for the collection of any amount not paid when due.

(12) A Record Inquiry Account holder must keep records for five years that identifies:

(a) The DMV record accessed;

(b) The personal information used;

(c) The permitted purpose for which this personal information was used;

(d) Whether this information was released to another person; and

(e) If released, how the person is eligible to receive personal information.

(13) DMV Records Policy Unit may inspect account holder records or request information on a specific record inquiry made by an account holder for reasons including, but not limited to, any indication that personal information is being misused or released to a person who is not eligible to receive personal information.

Stat. Auth.: ORS 184.616, 184.619 192.440, 802.010, 802.179, 802.183, 802.220 & 802.230

Stats. Implemented: ORS 802.179, 802.220 & 802.230

Hist.: MV 6-1978, f. 10-3-78, ef. 12-1-78; MV 19-1983, f. 12-30-83, ef. 1-1-84, Renumbered from 735-41-020; MV 9-1984, f. 6-29-84, ef. 7-1-84; MV 44-1989, f. & cert. ef. 10-16-89; DMV 16-1998, f. 12-17-98 cert. ef. 1-1-99; DMV 7-2014, f. & cert. ef. 8-29-14

735-010-0030

Types of Driver and Identification Card Records Available and Their Fees

This rule specifies the types of driver records available from DMV's driver records database and the fee amounts for the records:

(1) Abstract of Employment Driving Record — Computer-produced record of an individual's employment driving record. The record includes employment-related accidents, suspensions and convictions for violation of motor vehicle laws, as set forth in ORS 802.200(9). The record covers the three-year period preceding the date of the request. Miscellaneous administrative entries may also be included as determined by DMV. The record does not include convictions for offenses that result in a mandatory revocation or suspension under ORS 809.409, 809.411, 809.413 and 813.400. The record will include information of a positive drug test result, posted in accordance with ORS 825.412, only if the requestor provides written permission from the person who was subject to the drug test. The fee for each record is;

(a) $2 for a certified record ordered by mail or through DMV's Interactive Voice Response System (IVR);

(b) $2 for an uncertified record provided through the Driving Record Web Service;

(c) A $1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(2) Abstract of Non-employment Driving Record — Computer-produced record of an individual's non-employment driving record. The record includes motor vehicle accidents, convictions for violations of motor vehicle laws, other than those included in the employment driving record, and DUII diversion agreements for the three years preceding the date of the record request. The record also includes suspensions, revocations or cancellations of driving privileges, except those suspensions where DMV has received notice to reinstate the person's driving privileges under ORS 809.220. Miscellaneous administrative entries may also be included as determined by the department. The fee for each record is:

(a) $1.50 for a certified record ordered by mail or through IVR;

(b) $2 for an uncertified record provided through the Driving Record Web Service.

(c) A $1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(3) Insurance Abstract of Non-employment Driving Record — Computer-produced record containing certain entries of an individual's non-employment driving record as described in section (2) of this rule. The record includes motor vehicle accidents, convictions for violations of motor vehicle laws, other than those included in the employment driving record, DUII diversion agreements and suspensions, revocations or cancellations of driving privileges, except those suspensions where DMV has received notice to reinstate the person's driving privileges under ORS 809.220. This record is available only to insurers or insurance support organizations. An individual may request his or her own insurance abstract to obtain an insurance discount under ORS 746.265(3). The fee for each record is:

(a) $1.50 for a certified record ordered by mail;

(b) A $1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(4) Driver License Information Report — Information on the report includes driver name, address, license number, license type, license expiration date, license restrictions, license issue date and status of license. Driver license information may be provided orally or by computer-produced certified print. The fee for each report is:

(a) $1.50 for a computer-produced certified report or for an oral report from a DMV employee requested in person or over the phone. Information over the phone will only be provided to a record account holder. DMV will charge a search fee of $1.50 for any information requested under this paragraph but not found in DMV's driver records database;

(b) $1.20 for a report obtained through IVR. DMV will charge a search fee of $1.20 for any information requested under this paragraph but not found through IVR.

(5) Identification Card (ID card) Information Report — Information on the report includes ID card holder's name, address, ID card number, ID card expiration date, issue date, and status of ID card. ID card information may be provided orally through IVR or by computer-produced certified print. The fee for each report is:

(a) $1.50 for a computer-produced certified report or for an oral report from a DMV employee requested in person or over the phone. Information over the phone will only be provided to a record account holder. DMV will charge a search fee of $1.50 for any information requested under this paragraph but not found in DMV's records database;

(b) $1.20 for a report obtained through IVR. DMV will charge a search fee of $1.20 for any information requested under this paragraph but not found in IVR.

(6) Oregon Police Traffic Crash Report — The fee for a copy of an Oregon Police Traffic Crash Report is $9.50 for a certified copy or $8.50 for an uncertified copy. DMV will charge a search fee of $8.50 for an Oregon Police Traffic Crash Report that is requested but not found.

(7) Driver License/ID Card Application History — The fee for a person's application history which includes copies of any application for an original, renewal or duplicate driver license or ID card is $18.50 for a certified history or $17.50 for an uncertified history.

(8) Miscellaneous Driver Document Copy — Copies of any document or transaction related to a person's driving record, driver license, or driving privilege. The fee for a miscellaneous driver document is $5 for a certified copy or $4 for an uncertified copy.

(9) Driver Purged File History — Computer-produced print containing all entries shown on the computer file for a driver, except those entries exempted under the Oregon Public Records Law, ORS 192.410 to192.505. The fee for a driver purged file history is $2. DMV will charge a search fee of $1.50 for any driver file requested under this subsection but not found in DMV's driver records database.

(10) Court Print — Computer-produced record of an individual's employment and non-employment driving record. The record includes convictions for major traffic offenses, DUII diversion agreements and any alcohol rehabilitation entries for the ten years preceding the date of the request, and convictions for minor traffic offenses and motor vehicle accidents for the five years preceding the date of the request. The record also includes suspensions, cancellations, revocations and miscellaneous administrative entries, but does not include information exempt from disclosure under the Oregon Public Records Law. Court Print with CDL Medical Certification — Computer-produced record of a person considered to hold commercial driving privileges under ORS 807.018, employment and non-employment driving record as described above. The record also includes medical certification data that shows if the holder of commercial driving privileges is medically qualified to drive commercial motor vehicles. The fee for each record is:

(a) $3 for a certified print ordered by mail, through IVR or through the Automated Reporting Service (A.R.S);

(b) $2 for a record accessed through the Driving Record Web Service;

(c) A $1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(11) Suspension Package — Certified court print and certified copies of any of the following documents needed for a court proceeding: a suspension, revocation or cancellation notice; returned envelope, signed receipt, or affidavit showing service of the notice; hardship permit application; license restrictions; or any letter sent by DMV informing the person of a suspension, revocation or cancellation. The fee for a suspension package is $11.50. There is a $1.50 search fee if a court print requested under this subsection cannot be found in DMV's driver records database;

(12) Driver Records List — Computer produced list of driver names, addresses or other record information created using selection criteria. For example, the selection criteria may be the names and addresses of all licensed drivers of a specific age group. The following apply to a request for a driver records list:

(a) The requester must describe how the list will be used. If the purpose of the list is for bulk distribution, as defined in OAR 735-010-0008, the list will only include individuals who have requested that their personal information be provided to bulk distributors.

(b) DMV's computer system must be programmed to use the selection criteria requested. If the selection criteria requested requires additional computer programming, DMV will not provide the list unless DMV computer programming resources are available and the requester pays the actual programming costs as set forth in OAR 735-010-0000.

(c) The fee for a driver records list furnished via File Transfer Protocol Secure (FTPS) is $700.

(13) Purged Driver Record Information — Copy of a microfilmed driving record containing entries that have been purged from DMV's driver records database. The fee for a purged information driving record is $2.50 for a certified copy or $1.50 for an uncertified copy.

(14) Insurance Information Search — A search of DMV records to identify the insurance company and policy number for a vehicle or individual. This information may be provided orally by a DMV employee if requested in person or over the phone or by letter from DMV. The fee for an insurance information search is $10, regardless of whether the information is actually found in DMV records.

(15) Automated Reporting Service (A.R.S) — A court print sent automatically to an enrolled record account holder when an accident, conviction, DUII diversion or suspension, revocation or cancellation is posted to a listed individual's driving record. The fee for an A.R.S. court print is $3.00. If the account holder requests that DMV add or delete an individual from A.R.S. there is a $2.00 fee. There is no fee to add or delete an individual if the record account holder uses DMV's online system.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.010, 802.179, 802.183, 802.200, 802.220 & 802.230

Stats. Implemented: ORS 802.200, 746.265, 802.230, 802.220 & 825.412

Hist.: MV 10-1984, f. 6-29-84, ef. 7-1-84; MV 8-1985, f. & ef. 8-1-85; MV 20-1987, f. 9-21-87, ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-032-0035; MV 44-1989, f. & cert. ef. 10-16-89; MV 15-1990, f. 8-30-

90, cert. ef. 9-1-90; MV 12-1992, f. & cert. ef. 10-16-92; DMV 16-1998, f. 12-

735-010-0040
Types of Vehicle Records Available and Their Fees

The types of vehicle records available and the fees for these records are:

(1) Vehicle Record — Includes vehicle description, registered owner, security interest holders, lessors and other related information. Vehicle record information may be provided orally or by computer-produced certified print:

(a) The fee for a certified vehicle record ordered by mail or through DMV's Interactive Voice Response System (IVR) is $4. There is a $2.50 search fee if the vehicle record ordered cannot be found in the department's computer file;

(b) The fee for vehicle record information provided orally by an operator to an account user is $2.50. There is a $2.50 search fee if the vehicle record ordered cannot be found in the department's computer file; and

17-98, cert. ef. 1-1-99; DMV 20-2001, f. & cert. ef. 10-18-01; DMV 1-2002, f.

(c) The fee for vehicle record information provided orally through IVR is $2.00. When IVR is used and the vehicle record ordered cannot be found in the department's computer file, a $2 search fee will be charged.

(2) Vehicle Title History — Copies of all title transactions to the extent DMV has kept such records. Current owner information will be provided by computer print at no extra charge. The fee for a vehicle title history if not certified is $22.50, $23.50 if certified;

(3) Previous Owner Information — Copies of the last title transaction showing prior owner and a computer print with the current owner information. The fee for previous owner information if not certified is $14, $15 if certified;

& cert. ef. 1-17-02; DMV 5-2005, f. & cert. ef. 2-16-05; DMV 16-2009, f. 9-29-

(4) Insurance Information Search — A search of the records to identify the insurance company and policy number provided to DMV for a vehicle or individual. This information may be provided orally or by letter. The fee for an insurance information search is $10;

(5) Miscellaneous Vehicle Document — Copies of any transaction dealing with motor vehicle business. The fee for a miscellaneous vehicle document if not certified is $4, $5 if certified;

(6) Meter Skip — A computer-produced print indicating vehicle description, registered owner name, address, expiration date and title date. No security interest holder information is given. A request for this information must specify "Meter Skip" or it will be assumed security interest holder information is needed, and the requester will be charged for a complete vehicle record or vehicle title history. Requests must be submitted in writing and in all cases the vehicle registration plate number must be provided. The fee for a meter skip is $1.50;

09 cert. ef. 10-1-09; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 6-2012, f.

(7) Automated Meter Skips — Includes vehicle description, registered owner name, address, expiration date and title date. No security interest holder information is given. Requests for automated meter skips must be made via File Transfer Protocol Secure (FTPS). The fee for an automated meter skip is $.02 ($20 per thousand);

(8) Vehicle Records List — A records list of vehicle records meeting some specific criteria set by the requester, such as a list of all vehicle records of a particular year or make. Records lists are produced upon request if available selection criteria are used. The requester shall describe how the records list will be used. If the purpose of the records list is for bulk distribution as defined in OAR 735-010-0008, the records list shall only include individuals who have requested their names and addresses be provided on such lists. The vehicle records list is furnished via File Transfer Protocol Secure (FTPS). The fee for a vehicle records list using available criteria is $700. Records lists that require additional programming will not be provided unless other DMV priority demands on available data processing resources have been met. The fee for a vehicle records list that requires additional programming will be determined by the actual cost to produce the list using the criteria set forth in OAR 735-010-0000;

& cert. ef. 6-27-12; DMV 11-2013, f. & cert. ef. 9-24-13; DMV 4-2016, f. 9-22-

(9) Odometer Information Search — Includes a search of the department's records for the most recent odometer reading provided to the DMV for a given vehicle. This information may be provided orally, by computer certified print, or copies of documents in the

16, cert. ef. 9-26-16

department's files. The fee for an odometer information search is $2, $3 if the document copies are certified. The $2 fee will be required whether or not the record contains an odometer reading;

(8) Previous Odometer Reading Search — Includes a search of the department's records for the most recent odometer reading supplied to DMV, and the one just previous to it for a given vehicle. Copies of the documents reflecting the readings will be provided. The fee for a previous odometer reading search if not certified is $3.50, $4.50 if certified. The $3.50 fee will be required regardless of whether previous records contain odometer information; and

(9) Odometer History Search — Includes a search of the vehicle records for all odometer readings provided to DMV on or after January 1, 1986, for a given vehicle. Copies of all previous odometer readings will be provided. The fee for an odometer history search if not certified is $25, $26 if certified. A $25 fee will be required regardless of whether any odometer readings are found.

Stat. Auth.: ORS 184.616, 814.619, 192.440, 802.179, 802.183, 802.220 & 802.230
Stats. Implemented: ORS 802.177, 802.179, 802.200, 802.220 & 802.230
Hist.: MV 10-1984, f. 6-29-84, ef. 7-1-84; MV 9-1985, f. & ef. 8-1-85; MV 5-1986, f. & ef. 3-3-86; MV 20-1987, f. 9-21-87, ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-032-0040; MV 44-1989, f. & cert. ef. 10-16-89; MV15-1990, f. 8-30-90, cert. ef. 9-1-90; MV 12-1992, f. & cert. ef. 10-16-92; DMV 16-1998, f. 12-17-98, cert. ef. 1-1-99; DMV 20-2001, f. & cert. ef. 10-18-01; DMV 6-2012, f. & cert. ef. 6-27-12

735-010-0045
Other Department Records and Their Fees

(1) Other records available and the fees for the records are:

(a) Driving Under the Influence of Intoxicants Convictions and Alcohol Diversion Enrollment List (DUII and Diversion Lists) — A list of persons who have been convicted of driving under the influence of intoxicants or have enrolled in an alcohol diversion program. The list includes the name, address if known, date of birth, arrest date, conviction or enrollment date, the court type and location and the zip code, if available. The list is available weekly at a fee of $7.50 per list.

(b) Duplicate Photo Image — A copy of a duplicate image of a driver license or identification card photograph is available exclusively to law enforcement officials at a fee of $6.50 per photograph.

(c) Hearing Recordings — Upon request, a copy of the recording of a hearing will be provided to qualified requestors. The request must be in writing and accompanied by a fee of $6 per recording.

(2) Personal information will not be included in any motor vehicle record requested unless the requester qualifies to receive such information under ORS 802.175 to 802.179 and OAR 735-010-0200 to 735-010-0230.

(3) Requests for information where a fee is not specified in rule or law will be charged actual cost only, using the criteria set forth in OAR 735-010-0000.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179, 802.183, 802.220, 802.230
Stats. Implemented: ORS 802.177, 802.179, 802.200, 802.220 & 802.230
Hist.: DMV 16-1998, f. 12-17-98, cert. ef. 1-1-99; DMV 21-2002, f. & cert. ef. 11-18-02; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 14-2007, f. & cert. ef. 12-24-07

735-010-0055
Definition of Law Enforcement Official

For purposes of ORS 807.115, "law enforcement official" means:

(1) An Oregon peace officer;

(2) A person granted the statutory authority of an Oregon peace officer;

(3) An employee of a law enforcement agency of another state, sovereign nation, or the federal government who exercises the equivalent authority as an Oregon peace officer; or

(4) Any federal or state official who oversees criminal investigations, including the Oregon Attorney General, the Oregon Governor, the United States Attorney General, or a district attorney of the State of Oregon.

Stat. Auth.: ORS 184.616, 184.619 & 192.440
Stat. Implemented: ORS 807.115
Hist.: DMV 9-2001, f. & cert. ef. 5-14-01

735-010-0070
Submission of Change of Address and Update of DMV Records

(1) DMV maintains a customer database that contains information on all DMV customers. A single notice of address change will be sufficient for a customer to comply with ORS 807.560 (address changes related to driver licensing), 803.220 (address changes related to titling and registering vehicles) and 807.420 (address changes related to identification cards), as long as DMV is provided with sufficient information to identify the customer.

(2) DMV will accept a notice of a change of address:

(a) In writing by mail, facsimile or at a drop box in a DMV field office, in the form of a Change of Address Notice for DMV Records (DMV Form 735-6438) or any other written form;

(b) Electronically as set forth in OAR 735-018-0100; or

(c) In person at a DMV field office.

(3) DMV may accept an address change by telephone.

Stat. Auth.: ORS 184.616, 184.619, 803.220, 807.420 & 807.560
Stats. Implemented: ORS 803.220, 807.420 & 807.560
Hist.: DMV 1-1995, f. & cert. ef. 1-23-95; DMV 24-2003, f. 12-15-03 cert. ef. 1-1-04

735-010-0100
Purpose

An applicant for a driver license, driver permit or vehicle registration is required by ORS 803.370 and 807.050 to provide full legal name and actual residence address to DMV. DMV has the authority to accept something other than an actual residence or post office address, if the applicant does not have one. This may occur if, for example, the applicant is homeless or travels continuously. The purpose of OAR 735-010-0110 through 735-010-0170 is to:

(1) Specify how a customer establishes or changes a name;

(2) Establish a consistent means for determining full legal name for individuals and business name on existing DMV records;

(3) Define the different types of addresses and establish when DMV will require or accept each type of address; and

(4) Establish how the name and address information on the customer record will be used in corresponding with customers.

Stat. Auth.: ORS 184.616, 184.619, 803.370 & 807.050
Stats. Implemented: ORS 802.200, 802.250, 802.260, 803.220, 803.370, 807.050, 807.420, 807.560, 821.080 & 2008 OL Ch 1
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08

735-010-0110
Customer Record for Persons

(1) DMV shall maintain, as part of a customer record, information identifying a person including, but not limited to, the name, residence address and customer number. DMV shall maintain only one customer record per person, except as provided in this section. DMV may have more than one customer record for an individual, if, for example:

(a) Information the applicant provided when conducting business with DMV is insufficient to either locate an existing customer record for that individual or confirm the applicant is the same individual covered by an existing customer record; or

(b) Vehicle records existing prior to DMV's establishment of customer records contain insufficient information to connect that vehicle record to an individual's driving record or driver license, driver permit or identification card record.

(2) If an individual has no existing customer record or DMV is unable to locate a customer record, DMV shall create a customer record and shall assign the individual a customer number when he or she conducts business with DMV or when Oregon law requires the Department of Transportation to maintain a record. If the individual has been issued an Oregon driver license, driver permit or identification card, DMV shall use the number assigned to that document as the customer number.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 802.200, 802.260, 803.220, 803.370, 807.050, 807.420, 807.560 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0120
Customer Record for Business Entities

(1) DMV shall maintain, as part of a customer record, information relating to a business entity which includes, but is not limited to, the business name, business address and customer number. If a business entity transacts business with DMV using more than one business name as provided in OAR 735-010-0140, DMV shall establish a separate customer record and assign a customer number for each business name.

(2) DMV shall create a customer record and shall assign a customer number to each business entity conducting business with DMV or where Oregon law requires the Department of Transportation to maintain a record.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 802.200, 802.260, 803.220, 803.370, 807.050, 807.420, 807.560 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0130
Establishment and Use of Full Legal Name by an Individual

All of the following apply to establishment and use of a full legal name by an individual:

(1) An applicant for an Oregon driver license, driver permit or identification card, shall establish his or her full legal name as supported by one or more documents proving identity and date of birth required under OAR 735-062-0020 or proof of current legal name under 735-062-0014.

(2) An individual shall use only his/her full legal name when conducting any business with DMV, including but not limited to obtaining driving privileges, an identification card, vehicle title and vehicle registration.

(3) If an individual has not established a full legal name as provided in section (1) of this rule, DMV will use the name on his or her customer record as his or her name for vehicle title and registration purposes. An individual who is shown on any application for title as provided in ORS 803.050, any application for salvage title as provided under 803.140 or any transitional ownership record as defined in 801.562, shall use his/her full legal name.

(4) An individual shall use the same name in conducting all business with DMV. The individual must also provide the DMV-assigned customer number shown on the driver license, driver permit or identification card, if known.

(5) An individual's full legal name shall not include a title or honorific such as, but not limited to, Mr., Mrs., Reverend or Doctor.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 801.562, 803.015, 803.050, 803.140, 803.220, 803.370, 807.050, 807.420, 807.560, 809.135, 821.080 & 2008 OL Ch 1
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 23-2008(Temp), f. 9-11-08, cert. ef. 9-15-08 thru 3-13-09; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09

735-010-0140
Establishment, Use and Change of a Name by a Business

(1) When conducting any business with DMV, a business entity shall use only one business name, including use of the same name for different locations, branches or divisions. Nothing in this section shall preclude the use of different names for portions of a business entity that conducts business under separate business names (e.g. a parent company and subsidiary companies). Examples of a business name include, but shall not be limited to:

(a) The name of a corporation or an abbreviation or acronym on file with the Secretary of State; or

(b) The name of an agency established by law, which includes government agencies.

(2) A business entity may provide, if known, the DMV-assigned customer number in all business it conducts with DMV.

(3) If the name of a business entity that is exempt from ORS 803.220 changes, the business entity may provide DMV with the following information:

(a) The old and new name of the business whose name has changed; and

(b) Any DMV-assigned customer numbers to which the name change applies.

(4) This rule does not apply to those vehicles registered under ORS 805.060.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 801.562, 803.015, 803.050, 803.140, 803.220, 803.370, 807.050, 807.420, 807.560 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0150
Address Requirements for Individuals

(1) An individual conducting business with DMV, as defined in OAR 735-010-0008, shall provide and maintain current address information as established by statute and this rule.

(2) An individual shall provide DMV with a residence address as defined in OAR 735-010-0008, unless:

(a) The individual is exempt from providing a residence address as provided in ORS 802.250, and instead provides an employment address;

(b) The individual is a household member with an eligible party who provides an employment address under ORS 802.250; or

(c) The individual does not have an actual residence address.

(3) A residence address shall include sufficient information for DMV to determine the exact location of the individual's residence. In addition to the name of the city, county and state, a residence address shall include:

(a) The street and residence number, including an apartment or space number, if applicable, and the zip code; or

(b) The rural route and box number and zip code.

(4) An individual shall also provide DMV with a vehicle address for any vehicle primarily housed or dispatched from a location other than the residence address provided.

(5) A vehicle address shall contain sufficient information to determine the exact location from which the vehicle is dispatched or where it is housed. In addition to the city, county and state, a vehicle address shall include:

(a) The street name and number, the apartment, suite or office number, if applicable, and the zip code; or

(b) The rural route and box number and zip code.

(6) An employment address shall be the address as defined in OAR 735-010-0008. An employment address shall include sufficient information for DMV to determine the exact location of the public agency. In addition to the name of the city, county and state, the employment address shall include:

(a) The street name and number, including any applicable suite or office number and the zip code, or;

(b) The rural route and box number and zip code.

(7) An individual who does not have an actual residence address shall:

(a) Satisfy DMV that he or she is a resident of or domiciled in Oregon as provided in OAR 735-016-0030 and 735-016-0040; and

(b) Provide DMV with a descriptive address as defined in OAR 735-010-0008 and a mailing address.

(8) A descriptive address may include, but may not be limited to:

(a) The road name and distance from or direction from a landmark such as a milepost or prominent building, in addition to the city, state, county and zip code, if there is no specific street address;

(b) The address of a homeless shelter or reference to another location where the individual stays overnight, if the individual is homeless, but residing in Oregon; or

(c) Information that the person is mobile, such as someone who continually travels in a motor home.

(d) A descriptive address shall not be that of a service provider, except for purposes of registering a vehicle or obtaining a driver license, drive permit or identification card owned by the service provider.

(9) An individual may provide a mailing address in addition to any required residence or vehicle address.

(10) An individual shall provide the county of use for any vehicle that is primarily used in a county other than the county of the residence or vehicle address.

(11) A change of address, as described in OAR 735-010-0070, shall be made to a customer record when written notice is provided to DMV or given verbally in person at a DMV office by the individual with the address change. If the change of address is to an employment address:

(a) The request must be submitted on DMV Form 735-6438A by the individual requesting use of an employment address; and

(b) When DMV receives notification from the public agency that the individual is no longer employed by that public agency, DMV will not change the address from the public agency address, until the notice of change of address required by ORS 802.250 or another request described in subsection (a) of this section is received.

Stat. Auth.: ORS 184.616, 184.619, 803.370 & 807.050
Stats. Implemented: ORS 802.250, 802.260, 803.220, 803.370, 807.050, 807.420, 807.560 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0160
Address Requirements for Businesses

(1) A business entity, when conducting business with DMV as defined in OAR 735-010-0008, shall provide and maintain current address information as established by this rule.

(2) A business entity shall provide DMV with a business address as defined in OAR 735-010-0008, unless the vehicle is registered under ORS 805.060 or the business entity is the security interest holder or lessor of the vehicle.

(3) A business address, as defined in OAR 735-010-0008, shall include sufficient information for DMV to determine the exact physical location of the business. In addition to the name of the city, county and state, the business address shall include:

(a) The street name and number, and any applicable apartment, suite or office number, and the zip code;

(b) The rural route and box number, and zip code; or

(c) A post office address of the business, as long as a vehicle address is also provided when the business entity is shown as the owner on a vehicle registration.

(4) A business address shall not be that of a service provider, except for purposes of registering a vehicle owned by the service provider.

(5) A business entity shall provide DMV with a vehicle address for any vehicle that is primarily housed or dispatched from a location other than the business address provided, or when the business address given is an out-of-state address or post office address.

(6) A vehicle address shall contain sufficient information to determine the exact location from which the vehicle is dispatched or where it is housed. In addition to the city, county and state, a vehicle address shall include:

(a) The street name and number, the apartment, suite or office number, if applicable, and the zip code; or

(b) The rural route and box number, and zip code.

(7) A business may provide a mailing address in addition to any required business or vehicle address.

(8) A business entity shall provide the county of use for any vehicle that is primarily used in a county other than the county of the business or vehicle address.

(9) A change of address, as described in OAR 735-010-0070, shall be made to a customer record when notice is provided to DMV or verbally in person at a DMV office by the business entity with the address change.

Stat. Auth.: ORS 184.616, 184.619, 803.370 & 807.050
Stats. Implemented: ORS 802.260, 803.220, 803.370, 807.050, 807.420, 807.560 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0170
Vehicle Registration Addresses and County of Use

In order to clarify how the registration address relates to other requirements of vehicle registration, the following apply:

(1) Unless the owners provide DMV with information indicating differently, when the vehicle title record lists two or more owners with different residence or business addresses, and does not

give a vehicle address, DMV shall consider the registration address to be the residence or business address of the first owner listed on the title record.

(2) When a county of use is provided, the registration address as defined in OAR 735-010-0008 shall be used to determine if a vehicle is:

(a) Subject to vehicle pollution control requirements as covered in ORS 803.350, 803.465, and 815.295; or

(b) Subject to any county or district registration fee as provided in ORS 801.040.

Stat. Auth.: ORS 184.616, 184.619 & 803.370
Stats. Implemented: ORS 801.040(6) & (7), 803.350, 803.465 & 815.295
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0200
General Qualifications for Obtaining Personal Information

(1) A person may qualify to receive personal information from a motor vehicle record under more than one subsection of ORS 802.179.

(2) Personal information obtained under any subsection of ORS 802.179 shall only be used for the purpose authorized in the specific statutory subsection(s) under which the personal information was obtained and if applicable, shall only be used for the purpose authorized by administrative rule.

(3) Only personal information contained in a records list, obtained under ORS 802.179(11), shall be used for bulk distribution purposes.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179 & 802.183
Stats. Implemented: ORS 802.175 - 802.179
Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98

735-010-0210
Requests for Personal Information by a Legitimate Business

(1) In order for DMV to make a determination of whether a business is legitimate under ORS 802.179(3), the business must provide evidence to DMV's satisfaction which includes:

(a) One of the following:

(A) A current and valid business, professional, occupational or commercial license issued by a governmental body that regulates that type of business, profession, trade or commercial activity;

(B) A Certificate of Existence or Authorization issued by the Secretary of State under ORS 60.027, 62.065, 63.027, or 65.027;

(C) A current copy of the Articles of Incorporation or Articles of Organization, including proof that they have been filed with the Secretary of State, or if a foreign corporation or foreign limited liability company, proof that it has been authorized by the Secretary of State to transact business in Oregon or that it has been formed in accordance with the laws of the jurisdiction in which it is incorporated or organized;

(D) A current copy of the business Partnership Agreement;

(E) A copy of the business income tax form filed for the latest tax period for which filing was required;

(F) A certification from the Office of Minority, Women and Emerging Small Businesses or similar governmental organization; or

(b) At least two of the following:

(A) A business invoice issued by the business within the last three months showing the sale of a product or service the business provides;

(B) A current business card;

(C) A resume of work completed or products sold within the last three months, with names and phone numbers of customers who may be contacted for verification;

(D) A copy of a signed contract for work performed within the last six months;

(E) A copy of a current rental, lease or purchase agreement for the business premises, or proof of ownership of the business premises;

(F) A copy of a current rental or lease agreement for business equipment or a receipt or purchase agreement showing the purchase of business equipment. "Business equipment" means equipment necessary for the business to manufacture or provide a product or deliver a service and includes such things as a computer, photocopier, business vehicle, cash register, etc;

(G) A copy of a business related loan agreement;

(H) A copy of or reference to a current business advertisement, including but not limited to the yellow pages, newspaper, television or other media of general circulation. If from a reference DMV is unable to verify the advertisement, documentation of the advertisement may be required.

(2) Personal information obtained from DMV by a legitimate business may be used for the purposes specified in ORS 802.179(3).

(3) Only an individual who is an employee or owner of the business may obtain personal information from DMV. No other business or individual may act as a third party to obtain personal information on behalf of a legitimate business.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179 & 802.183
Stats. Implemented: ORS 802.179
Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98; DMV 29-2005, f. 12-14-05, cert. ef. 1-1-06

735-010-0215
Determination that a Person is a Disseminator

(1) In order for DMV to determine if a person is in the business of disseminating information, the person must provide the following:

(a) Sufficient evidence that the person is a legitimate business as set forth in OAR 735-010-0210(1);

(b) A description of the business;

(c) A description of the method used to ensure that personal information will be resold or redisclosed only to qualified persons or entities who are authorized by DMV to receive personal information;

(d) A copy of or reference to a current business advertisement, including but not limited to the yellow pages, newspaper, television, internet or other media of general circulation. If from a reference DMV is unable to verify the advertisement, documentation of the advertisement may be required; and

(e) Names and phone numbers of customers who may be contacted for verification.

(2) DMV may periodically require a disseminator to update the information described in section (1) of this rule and may use the information to monitor the disseminator's compliance with the requirements for the resale and redisclosure of personal information.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 192.440, 802.179 & 802.183
Stats. Implemented: ORS 802.179
Hist.: DMV 29-2005, f. 12-14-05, cert. ef. 1-1-06

735-010-0220
Requests for Personal Information Resulting from the Unsafe Operation of a Motor Vehicle

(1) To qualify to receive personal information under ORS 802.179(17), a person must submit a copy of one of the following reports, or if the person does not have a copy, information that enables DMV to locate such report if it has been filed with DMV. The report must contain information showing that the person was physically injured or that property they own was damaged as the result of the unsafe operation of a vehicle":

(a) A police crash report;

(b) A police incident report; or

(c) An Oregon Traffic Accident and Insurance Report filed with DMV under ORS 811.720.

(2) Except as otherwise provided by rule or law, a person who qualifies for personal information under section (1) of this rule shall be eligible to obtain:

(a) Personal information about any owner, driver or occupant of a vehicle involved in the unsafe operation and identified from the police crash report, the police incident report or the Oregon Traffic Accident and Insurance Report provided to DMV; and

(b) Personal information about any witness to the unsafe operation listed on the police crash report, the police incident report or the Oregon Traffic Accident and Insurance Report provided to DMV.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179 & 802.183

Stats. Implemented: ORS 802.179
Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98; DMV 10-2000, f. & cert. ef. 9-21-00

735-010-0230
Request for Personal Information by a Person with Financial Interest in a Vehicle

(1) This rule provides for release of personal information from DMV motor vehicle records to a person who has a financial interest in a vehicle, as authorized by ORS 802.179(16). Personal information shall only be released by DMV, to a person with a financial interest in a vehicle under ORS 802.179(16), for use in titling and registration of the vehicle.

(2) Except as otherwise provided in this rule, to have a financial interest in a vehicle a person must:

(a) Hold an interest in a vehicle that is reflected on the current title or salvage title;

(b) Be the owner of a vehicle as defined in ORS 801.375(1). An owner also includes a person who has acquired an ownership interest, but is not shown on the current title because the title has not been issued showing current ownership;

(c) Be the lessee of the vehicle under a lease agreement;

(d) Be the lessor of the vehicle under a lease agreement;

(e) Be a person entitled to the possession and use of the vehicle under a security agreement;

(f) Have a security interest in the vehicle; or

(g) Be a vehicle dealer who has acquired an ownership interest of the type described in subsection (2)(b) of this rule but is exempt from obtaining a title reflecting such interest under ORS 803.105.

(3) A person must submit documentation or information sufficient for DMV to verify their financial interest in the vehicle. Except as otherwise provided in this rule, such information or documentation includes:

(a) The current title or salvage title or the title or salvage title record of this state or of the jurisdiction in which the vehicle is titled. If registered in a state which does not issue title, the current registration document;

(b) An application for Oregon title or salvage title that is submitted or presented to DMV, that reflects the ownership interest and is supported by a primary ownership document(s) or other documentary evidence of ownership, as described in OAR 735-020-0010; or

(c) A verification from another jurisdiction that an application for title or a salvage title has been submitted that reflects that person's ownership interest;

(d) A notice of transfer of a vehicle to a vehicle dealer submitted to DMV under the provisions of ORS 803.105, or verification from another jurisdiction that such notice has been filed with that jurisdiction under similar provisions.

(4) DMV may consider other information or documents as verification of a financial interest if the document(s) covered in section (3) of this rule are not available and where the person can otherwise show they have acquired an ownership interest in the vehicle. Other information or documents that may be considered include, but are not limited to:

(a) A bill of sale signed by the owner(s) of record. "Owner of record" means the person(s) shown as the current owner in the vehicle records of the department;

(b) A security or purchase agreement for the vehicle;

(c) A canceled check used to purchase the vehicle;

(d) A completed and notarized affidavit to establish financial interest in a vehicle, DMV Form 7116(A); or

(e) A transitional ownership document submitted to DMV and which is not invalidated or rejected.

(5) Information or documents used for verification of a financial interest in a vehicle for the purpose of this rule shall:

(a) Indicate who has an interest in the vehicle. Information shall be sufficient for DMV to determine that the interest is of a type that would qualify as a financial interest as covered in section (2) of this rule; and

(b) Include a description of the vehicle sufficient to identify the vehicle in which the person has an interest.

(6) DMV may rely on the following to determine if personal information will be provided to a person who has a financial interest:

(a) Information or documents in DMV's possession;

(b) Information or documents available to DMV from other sources; or

(c) Information or documents requested by DMV, from the person to whom the personal information is to be released.

(7) Except as otherwise provided in this rule, the information or a document(s) required to verify a financial interest shall be submitted to DMV or presented to DMV for review and DMV must be satisfied as to the validity of the information or document(s).

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.179 & 802.183
Stats. Implemented: ORS 802.179
Hist.: DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05

735-010-0240
Authorization by DMV to Resell or Redisclose Personal Information

(1) A person or government agency authorized under ORS 802.179 to receive personal information from motor vehicle records may only resell or redisclose personal information to a person or government agency authorized by DMV to receive the information. To be authorized by DMV, a person must provide evidence to DMV sufficient to establish that the person is qualified to obtain personal information under ORS 802.179.

(2) A government agency that uses personal information for a governmental purpose is authorized by DMV and does not need to establish that it is qualified to obtain personal information.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 192.440, 802.179 & 802.183
Stats. Implemented: ORS 802.179
Hist.: DMV 29-2005, f. 12-14-05, cert. ef. 1-1-06

735-010-0250
Notification of Name and Address to the Director of Veterans' Affairs

(1) This rule specifies the procedures and the method for the Director of Transportation to notify the Director of Veterans' Affairs of the name and residence or mailing address of a member or veteran of a uniformed service, as authorized under Chapter 647, Oregon Laws 2013.

(2) The following definitions apply:

(a) "Authorization" means a written consent form signed by a Member or Veteran allowing DMV to provide the name and residence address or mailing address of the Member or Veteran to ODVA. An Authorization includes an electronic transaction as described in OAR 735-018-0130.

(b) "DMV" as used in Chapter 647, Oregon Laws 2013 and this rule means the Director of Transportation, the Department of Transportation, and the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(c) "ODVA" as used in Chapter 647, Oregon Laws 2013 and this rule means the Director of Veterans' Affairs and the Oregon Department of Veterans' Affairs.

(d) "Member or Veteran" means a member or veteran of a "Uniformed Service" as that term is defined in Chapter 647, Oregon Laws 2013.

(3) In conjunction with any application for driving privileges, identification card, vehicle title or vehicle registration, DMV will provide a written Authorization that may only be completed by an applicant who is a Member or Veteran of a uniformed service. DMV will not verify whether a person who has completed an Authorization is a Member or Veteran of a Uniformed Service.

(4) Upon receipt of an Authorization as described in section (2)(a) of this rule, DMV will enter the person's name and residence address or mailing address into an electronic file.

(5) No later than the 5th day of each month, the electronic file described in section (4) of this rule will be transmitted electronically to ODVA using a secure file transfer protocol.

Statutory Auth.: ORS 184.616, 184.612, 802.010, 802.179, Ch. 647 OL 2013
Stats. Implemented: Ch. 647 OL 2013
Hist.: DMV 20-2013, f. & cert. ef. 12-20-13

DIVISION 12

DMV PUBLICATIONS

735-012-0000
Fee Charged for the Oregon Vehicle Code Book

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) publishes the Oregon Vehicle Code Book, a biennial publication containing a compilation of Oregon motor vehicle laws. The Vehicle Code Book is available to any person or organization for a fee that covers DMV's costs to produce the publication.

(2) The fee for an Oregon Vehicle Code Book is $7.

(3) The fee for the Oregon Vehicle Code is calculated from:

(a) The cost to publish the code book; and

(b) The mailing costs.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.010 & 802.050
Stats. Implemented: ORS 802.050
Hist.: MV 16-1985, f. 12-19-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-032-0045; MV 9-1988, f. & cert. ef. 3-2-88; MV 15-1988, f. & cert. ef. 5-18-88; MV 50-1989, f. & cert. ef. 12-1-89; MV 28-1991, f. & cert. ef. 12-16-91; DMV 17-2001, f. & cert. ef. 9-21-01; DMV 7-2012(Temp), f. & cert. ef. 7-19-12 thru 1-15-13; DMV 14-2012, f. & cert. ef. 11-19-12

DIVISION 14

MOTOR VEHICLE ACCIDENT PREVENTION COURSES

735-014-0000
Standards for Approval of Motor Vehicle Accident Prevention Courses

(1) Course Content — The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall approve motor vehicle accident prevention courses for purposes of ORS 802.075 if the course curriculum includes the following:

(a) Defensive driving techniques;

(b) Motor vehicle laws; and

(c) Influence on driving ability of medication, fatigue, alcohol and drug use, visual and auditory limitations, and aging.

(2) How to get approved — A request from an organization for approval of a motor vehicle accident prevention course shall be submitted with a lesson plan that is complete enough for the reader to determine what will be taught. Requests shall be mailed to: Coordinator, Driver Safety Programs, DMV, 1905 Lana Avenue N.E., Salem, Oregon 97314.

(3) The instructor shall prepare completion certificates to be provided to the participants who successfully complete the approved course.

(4) The course shall have no more than 30 students per class and shall provide a minimum of 6 hours instructional time.

(5) The instructor may charge a fee.

(6) Withdrawal — DMV may withdraw approval of the motor vehicle accident prevention course at any time DMV has reason to believe the requirements of the course are not being met.

(7) Approved courses available — A list of approved courses and organizations authorized to present the courses may be requested by writing or calling the Coordinator of Driver Safety Programs at DMV.

Stat. Auth.: ORS 184.616 & 802.075
Stats. Implemented: ORS 802.075
Hist.: MV 54-1989, f. 12-21-89, cert. ef. 1-1-90; DMV 5-1996, f. & cert. ef. 8-15-96

DIVISION 16

RESIDENCY AND DOMICILE REQUIREMENTS

735-016-0010
Purpose

OAR 735-016-0010 through 735-016-0070 are adopted to clarify how application of the residency and domicile laws in the Motor Vehicle Code relate to acquisition and maintenance of vehicle registrations, driver licenses, driver permits and identification cards.

Stat. Auth.: ORS 184.616, 184.619, 802.500, 802.520, 803.200, 803.350, 803.355, 803.360, 807.050, 807.062, 821.080 & 826.033
Stats. Implemented: ORS 802.520, 803.200, 803.305, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 807.400 & 821.080
Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02

735-016-0020
Definitions that Apply to Residency and Domicile

For the purposes of OAR 735-016-0010 through 735-016-0070, and ORS Chapters 803, 807 and 826, the following definitions apply:

(1) "Abode," as used in ORS 803.355, in relation to domicile, means a person's true and permanent home or place of habitation.

(2) "Business entity" means a corporation, organization, firm, association, partnership, governmental agency, lawful commercial enterprise or other legal entity, other than a person.

(3) "Domicile" is as described in ORS 803.355. Domicile only applies to a person.

(4) "Established place of business" is:

(a) A physical structure in which the official business records of the business entity are kept and which is owned, leased or rented by the business entity or individual business owner;

(b) Designated by a street number or road location;

(c) Open for business during established business hours;

(d) Furnished with a telephone(s) publicly listed in the name of the business or the individual business owner; and

(e) Staffed by one or more persons conducting activities for the business maintaining the facility.

(5) "Gainful employment," as used in ORS 803.200 and 807.062, means engaging in lawful work for which the person receives a compensation.

(6) "International Registration Plan" (IRP) means the inter-jurisdictional reciprocity agreement to which Oregon is a party, which authorizes apportioned registration of fleets of vehicles and recognition of vehicles apportioned in other jurisdictions.

(7) "Operating motor vehicles in Oregon" means the physical operation of vehicles for business purposes.

(8) "Primary residence" means the state, jurisdiction or physical location where a person lives, during any 12-month period, more than he or she lives elsewhere during that period.

(9) For purposes of title and registration, "private passenger motor vehicle," as used in ORS 803.200, means a vehicle designed, owned and operated primarily for non-business, private transportation of persons over the highways:

(a) "Private passenger motor vehicles" include privately owned and operated cars and lightweight utility and pickup trucks with combined weights of 8,000 pounds or less; and

(b) "Private passenger motor vehicles" do not include:

(A) Motor homes;

(B) Vehicles with combined weights more than 8,000 pounds; or

(C) Vehicles used for compensation or profit.

(10) "Remaining in Oregon for a consecutive period of six months," as used in ORS 803.200 and 807.062, means:

(a) During a consecutive six-month period the person has continuously maintained a residence in Oregon and has only been absent from Oregon on trips of limited duration (e.g., vacations, business trips or retreats); or

(b) If the person lives in Oregon and some other jurisdiction, all of the following are true:

(A) At one time the person lived in Oregon for at least six consecutive months;

(B) He or she continuously maintains an Oregon residence; and

(C) Oregon is the person's primary residence.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 821.080 & 826.033

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99

735-016-0030

Domicile — Establishing Intent to Remain or Return

(1) In order to be domiciled in Oregon, a person whose place of abode is in Oregon must intend to remain in this state or if absent from the state must intend to return to it.

(2) DMV may require proof that the person intends to remain in Oregon. Acceptable proof, under this section, includes, but is not limited to:

(a) Ownership of the person's residence in Oregon, or a lease or rental agreement of 12 months or more in duration;

(b) Permanent employment in Oregon;

(c) A true copy of the Oregon income tax return filed with the Oregon Department of Revenue for the previous tax year, showing the person is a permanent or part-year Oregon resident. For purposes of this subsection, the proof must:

(A) Include a certification by the person that the original return was filed; and

(B) Show the person was an Oregon resident at the end of the tax year if the person was a part-year Oregon resident; or

(d) Payment of residence tuition fees at institutions of higher education in Oregon.

(3) A person who is absent from Oregon but claims to be domiciled in this state may be required to provide proof to DMV that shows the person intends to return to Oregon. Acceptable proof, under this section, must show:

(a) The person has continuously maintained an Oregon residence while absent from Oregon;

(b) The person owns a residence in Oregon;

(c) The person is temporarily residing outside of Oregon (e.g., payment of non-resident tuition while attending a school outside of Oregon, temporary transfer of employment to another state or country, temporary care of a family member out of state). The person may be required to show they have maintained ties with Oregon, including but not limited to voter registration or maintenance of an Oregon bank account;

(d) The person is a member of the United States Armed Forces, or the member's spouse, partner in a domestic partnership, or a dependent who resides with the member, who lists Oregon residence in his or her military records; or

(e) The person filed an Oregon income tax return with the Oregon Department of Revenue for the previous tax year that shows the person is a permanent or part-year Oregon resident. Acceptable proof under this subsection must:

(A) Be a true copy of the Oregon income tax return filed with the Oregon Department of Revenue and must include a certification by the person that the original return was filed; and

(B) Show the person was an Oregon resident at the end of the tax year if the person was a part-year Oregon resident.

(4) A person who claims to reside at the address of a service provider in Oregon, as defined in OAR 735-010-0008, for purposes of vehicle registration, driver licensing or obtaining an identification card must provide proof as described in section (2) or (3) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080, Sec. 3, Ch. 99, OL 2007

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 9-2009, f. 5-22-09, cert. ef. 6-1-09

735-016-0040

Application of Domicile and Residency Requirements

All of the following apply to the application of domicile and residency requirements for eligibility to obtain or requirement for an Oregon vehicle registration, driver license, driver permit or identification card:

(1) A person must be a resident of or domiciled in Oregon, and a business must be a resident of Oregon, to be eligible to register a vehicle in this state, unless otherwise authorized or required by law, including but not limited to:

(a) An inter-jurisdictional or reciprocal registration agreement;

(b) A declaration by the Director of Transportation pursuant to ORS 802.520; or

(c) An out-of-state corporation owning, operating or maintaining a place of business in Oregon with regard to vehicles that are used by the corporation doing business in Oregon. (ORS 803.300)

(2) A person must be a resident of or domiciled in Oregon to be eligible to obtain an Oregon driver license, driver permit or identification card, unless otherwise authorized or required by law.

(3) A person may be an Oregon resident for purposes of both vehicle registration and driver licensing or only for the purpose of vehicle registration.

(4) A person is an Oregon resident for purposes of obtaining an Oregon driver license, driver permit, identification card or vehicle registration if the person has taken action to indicate the acquiring of residence in Oregon by doing any of the following:

(a) Currently residing in Oregon after having remained in Oregon for a consecutive period of six months or more;

(b) Placing children in a public school without payment of nonresident tuition fees;

(c) Making a declaration to be an Oregon resident for the purpose of obtaining, at resident rates, a state license or tuition fees at an educational institution maintained by public funds; or

(d) Being gainfully employed in Oregon and taking any of the steps described above to indicate a residence.

(5) Notwithstanding section (4) of this rule, a person is not an Oregon resident for purposes of this section if:

(a) The person's gainful employment in Oregon is temporary, such as seasonal agricultural work, traveling sales work or a temporary job assignment in Oregon lasting fewer than six months; or

(b) The person is a student at an educational institution maintained by public funds who is paying nonresident tuition.

(6) A person is an Oregon resident only for purposes of registering a vehicle if the person does not meet the criteria in section (4) of this rule but:

(a) Owns a motor vehicle that operates in intrastate transportation for compensation or profit, other than for seasonal agricultural work; or

(b) Is the owner of an unincorporated business that has an established place of business, main office, branch office or warehouse facility in Oregon that operates motor vehicles in Oregon.

(7) A business entity shall be considered a resident for purposes of registering a vehicle(s) owned and operated in Oregon by the business entity for business purposes if it:

(a) Maintains an established place of business, main office, branch office or warehouse facility in Oregon and operates a motor vehicle(s) in Oregon; or

(b) Owns a motor vehicle that operates in Oregon in intrastate transportation for compensation or profit, other than for seasonal agricultural work.

(8) A lessor shall be considered a resident for purposes of registering a vehicle(s) leased in Oregon for a period of 60 or more days and operated in Oregon by the lessor for business purposes if the lessor:

(a) Maintains an established place of business, main office, branch office or warehouse facility in Oregon and operates motor vehicles in Oregon; or

(b) Owns a motor vehicle that operates in Oregon in intrastate transportation for compensation or profit, other than for seasonal agricultural work.

(9) Although not residing in Oregon, a member of the United States Armed Forces, the member's spouse, partner in a domestic partnership, or dependent who resides with the member, are eligible to register a vehicle or obtain a driver license, permit or identification card from Oregon, if domiciled in this state. Sufficient proof of domicile includes documentation that the member's state of legal residence, as listed in military records, for purposes of withholding State income taxes from military pay is Oregon.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080, Sec. 3, Ch. 99, OL 2007

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2008, f. & cert. ef. 2-4-08

735-016-0050
Eligibility for Vehicle Registration — Business Use

(1) In determining eligibility for registration of vehicles owned for business use, the phrase "maintaining a main office, branch office or warehouse facility in Oregon and operating motor vehicles in Oregon," as used in ORS 803.200(1)(d), applies to the following:

(a) A business entity;

(b) A person who owns and operates an unincorporated business; and

(c) Lessors of vehicles used for business purposes, leased in Oregon for a period of 60 or more days.

(2) To be eligible to register a vehicle owned for business use, a business entity or person or lessor as described in section (1) of this rule, shall:

(a) Be a resident as described in OAR 735-016-0040;

(b) Show that Oregon is the base jurisdiction for registration under the provisions of the IRP; or

(c) Be an out-of-state corporation owning, operating or maintaining a place of business in Oregon with regard to vehicles used by the corporation doing business in Oregon.

(3) An established place of business does not include the office or facility of a service provider, as defined in OAR 735-010-0008, who on behalf of another, applies for or facilitates registration of a vehicle in Oregon owned by a person or business entity who is not otherwise eligible to register a vehicle in Oregon.

(4) Operating motor vehicles in Oregon includes the following:

(a) Physical operation of a vehicle over Oregon highways;

(b) Housing, dispatching or servicing in Oregon those motor vehicles owned and operated by a business;

(c) Maintaining motor vehicles in Oregon for use by the business' employees in Oregon;

(d) Operating motor vehicles intrastate in Oregon for compensation or profit, other than seasonal agricultural work; and

(e) Lessors of trailers used solely in a pool fleet(s), as defined in the International Registration Plan, who do not otherwise physically operate motor vehicles in Oregon, shall be considered to be operating motor vehicles over the highways of Oregon, if the lessor:

(A) Maintains a main office, branch office, or warehouse facility in Oregon as defined in this rule; and

(B) Actually houses and dispatches or services trailers from a location within Oregon.

(5) Operating motor vehicles in intrastate transportation for compensation or profit, as used in ORS 803.200(1)(e), applies to all of the following:

(a) Transporting persons or property for other than seasonal agricultural purposes where both the origin and destination are within Oregon; and

(b) The persons or property are transported for some form of remuneration, gain or return, or the vehicles are commercial motor vehicles as defined in ORS 801.208.

(6) "Primarily housed and dispatched from" applies to the home base of a vehicle and includes:

(a) The primary location where the vehicle is parked, garaged or returned to when not in use;

(b) A business employee's primary base of operation or employment when he or she has an assigned business vehicle; or

(c) For vehicles housed and dispatched from different locations, the location from which the business most frequently dispatches or houses the vehicles.

Stat. Auth: ORS 184.616, 184.619 & 803.350

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360 & 803.370

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99

735-016-0060
When Proof of Residency or Domicile Is Required

(1) DMV may require proof that a person or business entity is eligible to obtain or renew a driver license, driver permit, identification card or to register or renew a vehicle in Oregon. Proof may be required when DMV has reason to believe a person or business entity is not a resident of or domiciled in this state.

(2) When a person applies for an Oregon driver license, driver permit or identification card, proof of residency or domicile may be required if:

(a) A person provides information that he or she currently resides somewhere other than Oregon;

(b) A person has no actual residence address, or

(c) A person wants to use an out-of-state residence address, out-of-state mailing address, or both.

(3) When a person applies for vehicle registration or renewal of vehicle registration, proof of residency or domicile may be required if:

(a) The person does not hold an Oregon driver license, driver permit or identification card;

(b) The person's residence address is not in Oregon; or

(c) The person has no actual residence address.

(4) In addition to sections (2) and (3) of this rule, DMV may at any time require proof of residency or domicile for a driver license, permit, identification card or vehicle registration, including, but not limited to the following:

(a) If a business entity provides only an out-of-state business address and does not provide an Oregon address of its established place of business, main office, branch office or warehouse facility;

(b) If DMV receives a complaint or other information that suggests that a person or business entity:

(A) Is or may be a resident of another state;

(B) Used a false address or an address that is not their residence or business address when applying for a driver license, driver permit, identification card or vehicle registration; or

(C) Has applied for registration or renewal or registered a vehicle which is not eligible for Oregon registration;

(c) If the address provided to DMV as a residence or business address is known or determined by DMV to be that of a service provider, such as a mail service;

(d) If the residence or business address provided to DMV is determined by DMV to generally be used as a temporary residence, such as a motel, homeless shelter or campground;

(e) If the address provided to DMV is determined by DMV to be an address that has been used by multiple applicants for a driver license, driver permit, identification card or vehicle registration; or

(f) If DMV receives information that a person or business entity is engaged in applying for vehicle registration or assisting in such application in Oregon when the vehicle is not qualified or eligible for Oregon registration and DMV has identified a vehicle(s) for which an application has been submitted or for which registration was obtained as a result of the person's or business entity's action.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-016-0070
Proof of Residency or Domicile

(1) DMV will accept the following as proof of residency or domicile to obtain or renew a driver license, driver permit, identification card or to register or renew a vehicle in Oregon:

(a) A residence address in Oregon where the applicant physically resides that is not the address of a service provider as defined in OAR 735-010-0008; or

(b) A true copy of the Oregon income tax return filed with the Oregon Department of Revenue for the previous tax year, showing the person is a permanent or part-year Oregon resident. For purposes of this subsection, the proof must:

(A) Include a certification by the person that the original return was filed with the Oregon Department of Revenue; and

(B) Show the person was an Oregon resident at the end of the tax year if the person was a part-year Oregon resident.

(2) If a person who resides in Oregon is not able to meet the requirements of section (1) of this rule, the person must provide DMV a certification of residency or domicile for an Oregon driver license, driver permit, identification card or vehicle registration. In addition, the person must provide at least two other forms of proof that the person is a resident of or domiciled in Oregon. Acceptable proof, under this section, includes but is not limited to:

(a) Property tax record(s), utility bills, rent receipts, a lease or rental agreement or other document that shows that the individual resides in Oregon;

(b) Enrollment records or other documentation that the person is attending an educational institution maintained by public funds and pays resident tuition fees;

(c) Motel, hotel, campground or recreational park receipts showing that the person currently resides in Oregon and has remained in Oregon for six consecutive months;

(d) A statement, dated within the last 60 days, from a relief agency or shelter that the person receives services in Oregon;

(e) Fuel receipts, motel receipts, or other documents that show the person has lived in Oregon for at least six of the last 12 months.

(f) Documents that show the person has a current bank account at a bank or credit union in Oregon and that the account has been open for 60 days or more;

(g) Any document that shows the person has received public assistance from an agency of the State of Oregon within the last year; or

(h) An Oregon voter registration card.

(3) If a person is domiciled in Oregon but is not currently residing in Oregon is not able to meet the requirements of section (1) or (2) of this rule, the person must complete a certification of residency or domicile for Oregon driver license, driver permit, identification card or vehicle registration. Additionally, the person must provide proof that the person intends to return to Oregon as provided in OAR 735-016-0030(3).

(4) Examples of documentation a business entity may be required to submit in relation to Oregon vehicle registration include but are not limited to:

(a) Property tax records, utility bills, rent receipts, lease agreements or similar documents which show the business entity is currently the occupant of an office or warehouse facility in Oregon along with copies of service records, fuel receipts, garage receipts or other documents that show the vehicle(s) is currently operated in Oregon;

(b) A permit number or other information that shows the person or business holds a permit or other authority issued under ORS Chapter 825 for intrastate transportation;

(c) Storage receipts, repair bills or similar documents that show a vehicle has been left in Oregon; or

(d) Dispatch, delivery, maintenance, tax records, or other documentation that show the business' vehicles are currently housed or dispatched from a location in Oregon or are currently operating in Oregon.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.350, 803.370, 807.050, 807.062 & 821.080
Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033
Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 12-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 9-2009, f. 5-22-09, cert. ef. 6-1-09; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

DIVISION 18

ACCEPTANCE AND VERIFICATION OF INFORMATION SUBMITTED BY ELECTRONIC MEANS

735-018-0000
Authority and Purpose

(1) OAR chapter 735, division 18 rules are adopted by DMV under the authority of ORS 802.012.

(2) The purpose of these rules is to:

(a) Specify the procedures and requirements under which a person or organization may, by electronic means, submit information to DMV that is customarily provided on paper forms; and

(b) Promote the development and use of electronic transactions between DMV and its customers while providing service that is efficient, secure, convenient and responsive.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0010
Definitions

For purposes of OAR chapter 735, division 18:

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) "DMV's Website" means DMV's Internet address at http://www.oregon.gov/ODOT/DMV.

(3) "Electronic record" means a document or information created, generated, sent, communicated, received or stored by electronic means.

(4) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person or organization with the intent to sign the record.

(5) "Electronic transaction" means the exchange of an electronic record and, in those transactions where an ink on paper signature would also be required under Oregon law, an electronic signature, between a person or organization and DMV for the purposes of:

(a) Facilitating access to public records or public information;

(b) Purchasing or selling goods or services;

(c) Transferring funds;

(d) Facilitating the submission of an electronic record or electronic signature required or accepted by DMV; or

(e) Creating records upon which DMV or another person or organization will reasonably rely upon, including but not limited to formal communications, notices, certifications, authorizations and any other record that is issued under a signature.

(f) This section does not apply to informational publications and informal communications.

(6) "Hardcopy" means a document printed on paper.

(7) "Hyperlink" means a connection to or within electronic documents or from one webpage to another webpage, or file using a computer programming language or user interface.

(8) "Organization" means corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity. "Organization" does not include an individual.

(9) "Person" means an individual.

(10) "Personal Information" means the following information that identifies the individual: driver license, driver permit or identification card number; name; address (excluding five-digit ZIP code); and telephone number.

(11) "PIN" means a personal identification number assigned by DMV to a person or organization to establish a secure means of authenticating the identity of a person or organization when conducting certain specified electronic transactions with DMV.

(12) "Record" means a document or information that is customarily printed on paper, which contains information relating to and evidencing the transaction of business between a person or an organization and DMV.

(13) "Unique identifier" means a number, name, symbol or other identifier used singly or in combination by DMV to uniquely identify a person, organization or vehicle to DMV. For example, a driver license number, customer identification number, date of birth, place of birth, mother's maiden name, vehicle license plate number, vehicle identification number, etc.

(14) "Webpage" means an electronic document created with a computer programming language or user interface that can be accessed through an online interface or the Internet and displayed on a device such as a computer monitor or mobile device.

(15) "Website" means a group of interrelated webpages, associated files or computer application systems hosted on a web server accessed through the Internet or an online interface.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 803.460, Ch. 647 OL 2013
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420, 807.560, Ch. 647 OL 2013
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 20-2013, f. & cert. ef. 12-20-13; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0020
General Provisions

An electronic transaction is a transaction conducted between DMV and a person or organization, including but not limited to the submission of electronic records to DMV that meets all of the following requirements:

(1) Is limited to the electronic transactions described under OAR 735, division 18 rules;

(2) Is voluntary, and is made at the sole discretion of the person or organization submitting the electronic record;

(3) Is conducted through DMV's website or an official State of Oregon website that hosts or administers a DMV application or service;

(4) Is subject to the provisions of DMV record privacy law (ORS 802.175-802.191) and Oregon's Public Records Law (ORS 192.410–192.505);

(5) Has the same level of legal protection and effect that is given to a hardcopy transaction and may not be denied legal effect, validity or enforceability solely because it is conducted in electronic form;

(6) Is conducted in accordance with:

(a) The provisions of OAR 735, division 18 rules;

(b) All applicable laws and administrative rules; and

(c) Any instructions contained on DMV's website.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0030
Personal Identification Number (PIN); Unique Identifiers

(1) DMV may, at its discretion, require the use of a PIN or other unique identifier for certain electronic transactions.

(2) If a PIN is required, a person or organization may request a PIN by submitting a request for PIN at DMV's website.

(3) Upon the receipt of a request for PIN, DMV will assign and, at its discretion, mail or e-mail a PIN to the person or organization requesting the PIN.

(4) DMV reserves the right to terminate a PIN issued under this rule, if the PIN is not activated or used at DMV's website within a period of time to be determined by DMV.

(5) A person or organization may request a change of PIN by submitting a request for change of PIN at DMV's website.

(6) Upon the receipt of a request to change a PIN, DMV will assign and, at its discretion, mail or e-mail a PIN to the person or organization requesting the PIN.

(7) At the time a request for PIN or request for change of PIN is submitted to DMV, DMV at its discretion, will e-mail or mail a PIN assigned under this rule to the person or organization's e-mail or physical address that is contained in DMV's records.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0040
Certifications

Pursuant to ORS 802.012(2), an electronic transaction conducted at DMV's website that includes the electronic submission of any information to DMV necessary to comply with any requirement of the Oregon Vehicle Code, statute, or administrative rule shall:

(1) Constitute a certification, including but not limited to a certification as to the truth and accuracy of the document or information submitted in the electronic record;

(2) Apply whether or not the information submitted is signed by the person or organization that submits the information; and

(3) Apply whether or not the information was electronically submitted as part of an electronic record or in some other form.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0050
Date and Time a Transaction is Considered Submitted and Received

(1) An electronic transaction is considered received by DMV on the date and at the time a user submits an electronic record into DMV's website, or an official State of Oregon website that maintains a hyperlink to DMV's website, and receives an electronic confirmation or receipt from DMV's website.

(2) To be considered received or timely submitted, an electronic record must be received by DMV no later than 12:00 midnight on the deadline for submitting the electronic record.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0060
Signature

For any transaction that is required under Oregon law to be in writing and have a signature, an electronic signature shall have the same legal force and effect as if the person or organization had submitted the transaction in hardcopy with a handwritten signature in ink on paper.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0070
Payment of Fees; Use of Credit Cards; Debit Cards

(1) If an electronic transaction requires the payment of fees to DMV, payment of those fees within the electronic transaction shall be limited to only those credit card(s) or debit card(s) that are approved by DMV and designated on DMV's website.

(2) To pay required fees to DMV within an electronic transaction, a person or organization must submit the following information to DMV:

(a) Credit cardholder or debit cardholder name and billing address, including city, state and ZIP code;

(b) Credit card or debit card number;

(c) Expiration date of the credit card or debit card; and

(d) If required, the telephone number of the credit card or debit card holder or the security code assigned to the credit card or debit card.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0080
Electronic Confirmation or Receipt, or Error Message

An electronic transaction conducted at DMV's website will result in the generation of an electronic confirmation or receipt, or an error message including, but not limited to, one or more of the following:

(1) An error message informing the user a problem exists that must be corrected before the electronic transaction can be completed, if:

(a) An error is made on an electronic record; or

(b) A required data element is left off an electronic record.

(2) An error message informing the user a problem exists and that the electronic transaction cannot be completed, if:

(a) DMV's website is experiencing technical difficulties;

(b) There is an error in transmission of the electronic record;

(c) There is a problem with the electronic record submitted; or

(d) The credit card or debit card used in the transaction is declined.

(3) An electronic confirmation or receipt, if the electronic transaction is successfully completed.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0090
Electronic Records

DMV records pertaining to electronic transactions conducted at DMV's website are subject to all of the requirements for processing and records maintenance as described in OAR chapter 735, division 10.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0100
Notification of Change of Address by Electronic Means

(1) Except as prohibited under section (2) of this rule, a person required to notify DMV of a change of address pursuant ORS 803.220, 807.420 or 807.560 and OAR 735-010-0070, may, in lieu of submitting a hardcopy Change of Address Notice For DMV Records (**DMV Form 735-6438**), notify DMV electronically of a change of address by submitting a notice of a change of address at DMV's website.

(2) An electronic notice of a change of address by an organization as defined in OAR 735-018-0030 is expressly prohibited.

(3) This rule does not apply to notice of a change of name or any other provision otherwise required by ORS 803.220, 807.420 or 807.560.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03

735-018-0110
Renewal of Vehicle Registration by Electronic Means

(1) A person or organization may renew, by means of an electronic transaction at DMV's website, a vehicle registration pursuant to ORS 803.360, 803.370, 803.450, 803.455, 803.460, 803.465 and 803.473, by submitting:

(a) A completed Online Registration Renewal Transaction; and

(b) The fee required to be paid for renewal of vehicle registration under ORS 803.455 under the method prescribed in OAR 735-018-0070.

(2) In addition to the certifications described in OAR 735-018-0040, a renewal of vehicle registration submitted by means of an electronic transaction shall constitute a certification of all of the following:

(a) The motor vehicle for which the person is applying for registration:

(A) Is, at the time of registration renewal, covered by the insurance policy indicated on the registration renewal application;

(B) Is not subject to weight-mile tax; and

(C) If the vehicle is a tow/recovery, farm, mobile home toter, or a charitable/non-profit vehicle that has been previously issued special registration, at the time of renewal:

(i) The vehicle continues to qualify for special registration; and

(ii) The vehicle's use continues to conform to Oregon law as previously certified.

(b) The applicant for vehicle registration renewal:

(A) Is a resident of or domiciled in Oregon, or is otherwise eligible, or required to register the vehicle in question pursuant to ORS 803.200 and 803.360;

(B) Understands that it is a crime under ORS 803.375 to knowingly make a false statement on an application for vehicle registration; and

(C) If required, has an in-house drug and alcohol testing program that meets the federal requirements; or is member of a consortium that provides testing that meets the federal requirements, or is exempt from the preceding requirements described in this paragraph.

(c) Proof of compliance with financial responsibility requirements pursuant to ORS 803.460.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03

735-018-0120
Notification of Transfer or Sale of Vehicle by Electronic Means

Notice required under ORS 803.112 and 803.117 that a person has transferred interest in a vehicle covered by an Oregon title may be submitted to DMV by means of an electronic transaction through DMV's website.

Stat. Auth.: ORS 814.616, 184.619, 802.012, 803.112 & 803.112
Stat. Implemented: ORS 802.012, 803.112 & 803.117
Hist.: DMV 27-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 12-2004, f & cert. ef. 6-24-04

735-018-0130
Authorization to Provide Name and Address to the Director of Veterans' Affairs

An Authorization to provide the name and address of a Member or Veteran of a Uniformed Service to the Director of Veterans' Affairs as described in OAR 735-010-0250 may be submitted to DMV by means of an electronic transaction through DMV's website.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 803.460, Ch. 647 OL 2013
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420, 807.560, Ch. 647 OL 2013
Hist.: DMV 20-2013, f. & cert. ef. 12-20-13

DIVISION 20

GENERAL TITLE PROVISIONS

735-020-0000
Perfection of a Security Interest — Definitions

The following terms and definitions apply to OAR 735-020-0000 to 735-020-0060:

(1) "Agent" means a person designated by DMV to accept applications and fees for vehicle titles and registrations, and includes a person issued a vehicle dealer certificate under ORS 822.020.

(2) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(3) "EVR" means DMV's electronic vehicle registration program.

(4) "EVR integrator" is a person designated by DMV by written agreement to facilitate transactions related to the titling and registering of motor vehicles between DMV and those Oregon vehicle dealers approved by DMV to conduct EVR transactions, including but not limited to the processing of applications for vehicle title and registration.

(5) "Evidence of Ownership" as used in ORS 803.097 means a document that contains a description of the vehicle, the name of each owner of the vehicle and the name of each person to whom interest is assigned, awarded or transferred; and

(a) Is a primary ownership document as provided in OAR 735-020-0010; or

(b) Is a transitional ownership document (TOD) as provided in OAR 735-020-0015.

(6) "Ownership document" has the same meaning as "ownership record" as defined in ORS 801.377 and as used in 803.130 through 803.138.

(7) "Primary ownership document" has the same meaning as "primary ownership record" as defined in ORS 801.402 and as used in 803.130 through 803.138.

(8) "Transitional ownership document" has the same meaning as "transitional ownership record" as defined in ORS 801.562 and as used in 803.130 through 803.138.

Stat. Auth.: ORS 184.616, 184.619, 802.210 & 803.097

Stats. Implemented: ORS 801.130, 801.402, 801.562, 803.097 & 803.130 - 803.138

Hist.: MV 2-1988, f. & cert. ef. 1-7-88; Administrative Renumbering 3-1988, Renumbered from 735-110-0500; MV 18-1988, f. & cert. ef. 6-1-88; MV 9-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 5-2000, f. & cert. ef. 8-10-00; DMV 10-2002, f. & cert. ef. 6-24-02; DMV 6-2004, f. & cert. ef. 5-24-04

735-020-0010

Perfection of Security Interest; Primary Ownership Document

(1) This rule specifies the documents DMV will consider primary ownership documents for the purposes of perfecting a security interest in a vehicle.

(2) Except as provided in section (3) of this rule, a primary ownership document is:

(a) A manufacturer's certificate of origin (MCO) or equivalent document as described in OAR 735-022-0030 through 735-022-0060. This subsection applies to:

(A) A vehicle or camper built by a manufacturer that has never been titled or registered; and

(B) A vehicle or camper built, assembled, or reconstructed using a component kit that has never been titled or registered. The MCO may only be considered a primary ownership document for the vehicle or camper parts contained in the kit.

(b) A current certificate of title or salvage title issued for a vehicle or camper; or

(c) A Certificate to Obtain Title for a Vehicle (U.S. Government Form SF 97), for a vehicle or camper previously owned by the U.S. Government and where interest is being transferred.

(3) Notwithstanding section (2) of this rule, DMV may, at its discretion, consider other documents to be primary ownership documents when:

(a) DMV is satisfied that the original Oregon title has been lost or destroyed, and that there has been a change in interest;

(b) Interest has been transferred by operation of law under Oregon law, or through court action in a court having jurisdiction over persons or property located in Oregon, and the primary ownership documents described in section (2) of this rule are not available;

(c) The security interest is in a vehicle or camper not manufactured for sale in the U.S., and that is not currently registered or titled in the U.S.;

(d) The security interest is in a vehicle or camper last titled or registered outside the U.S.; or

(e) DMV is satisfied that a primary ownership document described in section (2) of this rule was never issued, is not obtainable, or has been surrendered to another jurisdiction.

(4) Documents DMV may determine are primary ownership documents under section (3) of this rule include but are not limited to:

(a) A court judgment or decree from a court having jurisdiction over persons or property located in Oregon that awards ownership of a vehicle or camper as a matter of law;

(b) A certificate of possessory lien foreclosure as described in OAR 735-020-0012;

(c) A completed and signed Inheritance Affidavit (DMV Form 735-516) vesting the interest of a deceased owner in the person designated by all the heirs as the owner of the vehicle or camper;

(d) A completed and signed Certificate of Ownership of an Assembled Light Trailer or Heavy Trailer (DMV Form 735-6644) for a trailer built by someone other than a manufacturer;

(e) A completed and signed Application for Replacement Title (DMV Form 735-515) or Application for Replacement Salvage Title (DMV Form 735-230) where:

(A) The application is accompanied by an Application for Title and Registration (DMV Form 735-226) that includes a release of interest from anyone listed on the original title that will not be listed on the new title; and

(B) Any change in interest is of a type not subject to odometer disclosure requirements under ORS 803.102 and OAR 735-028-0000 through 735-028-0100;

(f) A completed and signed Certification of Ownership Facts (DMV Form 735-550);

(g) An Ownership document issued by the U.S. Armed Forces for a vehicle or camper owned by a member of the U.S. Armed Forces;

(h) A salvage title, salvage bill of sale, or dismantler (wrecker) bill of sale on a vehicle or camper whose title has been surrendered to a jurisdiction; or

(i) For a vehicle or camper described under subsections (3)(c) and (d) of this rule:

(A) A certificate for export purposes issued by a foreign jurisdiction; or

(B) A vehicle or camper registration if the vehicle has been registered but is not currently titled.

(5) When the application for notation of a security interest is for a vehicle or camper that is initially being titled as assembled, reconstructed, or a vehicle replica, the primary ownership document must be specific to the frame or unibody.

(6) When the application for notation of a security interest is for a vehicle or camper manufactured in more than one stage, the primary ownership document(s) must cover each stage of manufacture.

(7) DMV may invalidate a primary ownership document as evidence of ownership if it determines:

(a) The document is fraudulent or contains false information; or

(b) The document does not show the most current ownership interest in the vehicle or camper.

(8) If, after a title has been issued, it is determined that the evidence of ownership is invalid under section (7) of this rule, DMV may cancel the vehicle title. Before a title is cancelled, DMV will send a notice of the proposed cancellation to the vehicle owner or lessee, security interest holder(s) and lessor (if applicable), as listed in DMV records. A cancellation becomes effective 10 days after the date the notice is deposited with the postal service, unless a hearing is requested within that 10-day period. If a timely hearing is requested, the cancellation will be contingent on the outcome of the hearing.

(9) A title cancellation under section (8) of this rule automatically invalidates the security interest(s) noted on that title. A new application for notation for perfection of security interest and valid evidence of ownership must be submitted to DMV before security interest in a vehicle can be perfected pursuant to ORS 803.097.

(10) DMV will not invalidate a primary ownership document as evidence of ownership based solely on missing title requirements (e.g., missing odometer information, and fees).

(11) A document considered by DMV to be a primary ownership document under section (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 801.402, 802.010 & 803.097

Stats. Implemented: ORS 801.402, 803.097 & 803.205

Hist.: MV 2-1988, f. & cert. ef. 1-7-88; Administrative Renumbering 3-1988, Renumbered from 735-110-0510; MV 18-1988, f. & cert. ef. 6-1-88; MV 9-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-2002, f. & cert. ef. 6-24-02; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 2-2012, f. & cert. ef. 2-21-12; DMV 3-2014, f. & cert. ef. 5-19-14

735-020-0012

Application for Title by Possessory Lien Foreclosure

(1) This rule designates the forms and procedures to be used when evidence of a possessory lien foreclosure is submitted to DMV in support of an application for vehicle title.

(2) In addition to all applicable fees, an application for title that is supported by evidence of a possessory lien foreclosure must be accompanied by one of the following certification forms:

(a) For a landlord's lien pursuant to ORS 87.162, a Certificate of Possessory Lien Foreclosure (DMV Form 735-518);

(b) For an abandoned vehicle pursuant to ORS 98.835, a Certificate of Possessory Lien Foreclosure (DMV Form 735-519);

(c) For a possessory lien for labor or material expended on chattel (mechanic's lien) pursuant to ORS 87.152, a Certificate of Possessory Lien Foreclosure (DMV Form 735-520);

(d) For property abandoned by a tenant pursuant to ORS 90.425, a Certificate of Possessory Lien Foreclosure (DMV Form 735-521);

(e) For a lien for towing a vehicle pursuant to ORS 819.160, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6604); or

(f) For towing, care and storage charges of an unlawfully parked vehicle pursuant to ORS 98.812, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6605).

(3) A certification form described under section (2) of this rule must be the correct form for the type of lien foreclosure, have a revision date of January 2008 or later, and contain the following:

(a) Information sufficient to identify the vehicle, such as the plate number, including the jurisdiction of issuance if the vehicle is not registered in Oregon, or VIN number;

(b) The printed name of the buyer;

(c) The date of the public auction;

(d) The printed name and address of the lien claimant; and

(e) The signature of the lien claimant. The lien claimant's signature constitutes a certification that the information in the Certificate of Possessory Lien Foreclosure is true and accurate and that the lien claimant complied with all applicable statutory requirements for the possessory lien foreclosure.

(4) A certification form submitted and completed as described under sections (2) and (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045, 803.094, 803.097

Stat. Implemented: ORS 87.152, 87.162, 87.166, 87.172, 87.176 — 87.206, 90.425, 90.675, 98.805, 98.810, 98.812, 98.818, 98.830, 98.835, 803.045, 803.094, 803.097, 803.205, 809.720, 811.555, 811.570, 819.110, 819.120, 819.160 & 819.230

Hist.: DMV 10-2002, f. & cert. ef. 6-24-02; DMV 2-2012, f. & cert. ef. 2-21-12

735-020-0015

Transitional Ownership Document — Limited Ownership Document

(1) "Transitional ownership document" (TOD) as used in OAR 735-020-0010 through 735-020-0040, is a document that:

(a) Is only valid when in the possession of the Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation, and so long as it has not been returned, rejected or invalidated by DMV;

(b) Is evidence of ownership and is an application for notation of a security interest, as used in ORS 803.097, and subsequently may be invalidated as such;

(c) Is not negotiable; and

(d) Shall not by itself be evidence of a person's ownership or right to title.

(2) As used in this rule and ORS 803.136, 30 days or 90 days means calendar days excluding the actual date of sale or date the security agreement or contract was signed. If the last day of the 30 or 90-day period falls on a Saturday or legal holiday, including Sunday, the TOD will be accepted if received by DMV on the first business day following the Saturday or legal holiday.

(3) The date DMV receives a TOD shall be considered the date requirements for perfection of a security interest were met, unless DMV rejects, returns, or invalidates the TOD.

(4) A TOD must be submitted either on an original DMV Transitional Ownership Document form or on an exact copy of the DMV form that is legible and can be photocopied, microfilmed, electronically scanned or otherwise reproduced by DMV.

(5) A photocopy or facsimile of a TOD may be submitted if it is legible and can be photocopied, microfilmed, electronically scanned or otherwise reproduced by DMV equipment.

(6) The vehicle identification number (VIN) required to be on a TOD must be the same VIN listed on the primary ownership document, unless it has been determined by DMV that the vehicle will be titled using a different VIN.

(7) On the TOD form, any change to the information regarding date of sale/date security agreement or contract signed, the name of each owner of the vehicle, the name and address of each security interest holder and their priority of interest if not holding jointly, the VIN and the name of the person submitting the form for the security interest holder, must be either initialed by the person submitting the form; or explained in a letter signed by the person submitting the form. This is not a requirement for correction of a misspelled name or misspelled address, or correction of a non-sequential portion of the VIN.

(8) No additions, deletions or corrections to the TOD will be accepted after DMV has marked the TOD as received.

(9) If the security interest holder, or person who originally submitted the TOD, wants to change the information on a TOD after DMV has marked the TOD as received, that person may submit a new TOD reflecting the change. If they do this:

(a) The previously submitted TOD shall be invalidated;

(b) The date the subsequent TOD is received, unless that document is also subsequently invalidated, shall be used for determining when requirements for perfection have been met; and

(c) The security interest holder or person who submitted the original TOD must submit a notice withdrawing the TOD, as provided in OAR 735-020-0030.

(10) If a TOD is invalidated, that same form may not be used as a TOD to make a subsequent application for perfection of a security interest.

(11) If DMV is in possession of the primary ownership document the requirement that the primary ownership document be submitted within 90 days from the date of sale, or if no sale, within 90 days of the date the security agreement or contract is signed, shall not be considered to have been met unless:

(a) DMV is provided with information sufficient to locate the primary ownership document; and

(b) DMV is able to connect the TOD and primary ownership document before DMV issues title for the vehicle.

(12) An invalidated TOD shall not be acceptable as either evidence of ownership or application for notation of a security interest.

Stat. Auth.: ORS 184.616, 184.619, 801.402, 802.010, 803.097 & Ch. 261, OL 2005

Stats. Implemented: ORS 801.402 & 803.097

Hist.: MV 18-1988, f. & cert. ef. 6-1-88; MV 20-1989, f. & cert. ef. 10-3-89; MV 9-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 11-1996, f. & cert. ef. 12-20-96; DMV 5-2000, f. & cert. ef. 8-10-00; DMV 19-2005, f. 9-19-05, cert. ef. 10-17-05

735-020-0020
Perfection of a Security Interest — Application for Notation of a Security Interest

(1) An application for notation of security interest for purposes of perfection of a security interest in a vehicle, hereafter referred to as an "application for security interest" is:

(a) A completed and signed DMV application for Oregon title submitted to DMV;

(b) A letter, a memo, or other written form; or

(c) A transitional ownership document (TOD) submitted to DMV as provided in ORS 801.562, OAR 735-020-0015, and 735-020-0040 through 735-020-0045.

(2) An application for security interest must include the following:

(a) If submitted on an application for Oregon title as described in subsection (1)(a) of this rule:

(A) The name of each owner of the vehicle;

(B) The name and address of the security interest holder; and

(C) The vehicle identification number (VIN).

(b) If the application for security interest is a TOD as described in subsection (1)(c) of this rule, the TOD must comply with all applicable provisions of ORS 801.562, OAR 735-020-0015, 735-020-0040 and 735-020-0045.

(3) If the application for security interest is submitted on an application for Oregon title, the application must be accompanied by a primary ownership document unless DMV is in possession of the primary ownership document or the primary ownership document will be submitted separately, and the applicant provides the following information:

(a) A description of the vehicle, including VIN number, sufficient to connect the application for security interest and the primary ownership document;

(b) A statement that the primary ownership document is in the possession of DMV or will be submitted to DMV separate from the application for security interest;

(c) The date the primary ownership document was submitted or will be submitted to DMV; and

(d) If DMV has possession of the primary ownership document, the DMV office where it was submitted. If the primary ownership document will be submitted at a later date, it must be mailed to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314 or submitted to an EVR integrator.

(4) If an application for security interest is a TOD, the provisions of ORS 801.562, OAR 735-020-0015, 735-020-0030, and 735-020-0040 through 735-020-0045 will determine when and if security interest is perfected.

(5) When the notation application is in any form other than a TOD, the date DMV or an EVR integrator has both an application for security interest that meets the requirements of this rule and the primary ownership document will determine when all requirements for perfection have been met:

(a) Except as provided in subsection (c) of this section, when the application for security interest and primary ownership document are submitted separately, the date when both the application and the primary ownership document are in the possession of DMV or the EVR integrator will determine the date the application for security interest is first received;

(b) When an application for security interest is accepted by an agent of DMV, the date the application is first received will be the date DMV or an EVR integrator and not the agent, receives both the application and primary ownership document; and

(c) If the application for security interest does not contain the information required under subsection (2)(a) of this rule, or if the application or primary ownership document is returned to the applicant or agent by DMV or an EVR integrator, the date marked on the application or entered in the DMV vehicle record as the date it was first received, is not the date of perfection of the security interest. The DMV vehicle record will indicate the date when all requirements for notation of a security interest are again received by DMV or an EVR integrator.

(6) For purposes of perfecting a security interest in a vehicle, when DMV or an EVR integrator first receives an application for security interest as set forth in section (5) of this rule:

(a) The date will be marked on the application for security interest; or

(b) DMV will indicate in the vehicle record the date the application for security interest was first received by DMV.

(7) DMV will only change a date described under section (5) of this rule if DMV determines the date marked on the application or recorded in the DMV vehicle record does not accurately reflect the date the application for security interest was first received by DMV or the EVR integrator.

Stat. Auth.: ORS 184.616, 184.619, 802.600 & 803.097
Stats. Implemented: ORS 801.402, 801.465, 801.562, 802.600, 803.097 & 803.130 - 803.138
Hist.: MV 2-1988, f. & cert. ef. 1-7-88; Administrative Renumbering 3-1988, Renumbered from 735-110-0520; MV 18-1988, f. & cert. ef. 6-1-88; MV 20-1989, f. & cert. ef. 10-3-89; MV 9-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 6-2004, f. & cert. ef. 5-24-04

735-020-0030
Perfection of a Security Interest — Withdrawal of Transitional Ownership Document Required

(1) If an application for title, along with the primary ownership document, will be submitted to Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) within 90 days of the date of the vehicle's sale or the signing of a security agreement or contract, the security interest holder or person who submitted the TOD to DMV must immediately submit a notice withdrawing the TOD when:

(a) Submitting a subsequent TOD for the vehicle, as provided in OAR 735-020-0015; or

(b) The security interest holder's security interest in the vehicle is released before the vehicle title is issued.

(2) The notice withdrawing the TOD must be in writing and contain the following:

(a) A statement requesting that the TOD previously submitted be withdrawn;

(b) The name and signature of the security interest holder or the person who submitted the TOD on behalf of the security interest holder; and

(c) Information sufficient for DMV to locate and identify the TOD, such as:

(A) The vehicle identification number;

(B) The name of each registered owner; and

(C) The name and address of the security interest holder.

Stat. Auth.: ORS 184.616, 184.619, 803.092, 803.094, 803.097 & 803.136
Stats. Implemented: ORS 803.130 - 803.138
Hist.: MV 18-1988, f. & cert. ef. 6-1-88; MV 10-1989, f. & cert. ef. 10-3-89; DMV 5-2000, f. & cert. ef. 8-10-00

735-020-0040
Perfection of a Security Interest — Transitional Ownership Document Fees

All of the following apply to fees required for a transitional ownership document (TOD):

(1) Persons who choose to submit TODs to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) by facsimile device shall establish an account with DMV for the purpose of paying for TODs. Accounts established for this purpose shall:

(a) Be subject to the provisions of OAR 735-010-0020;

(b) Be separate from and in addition to any other account the person may establish with DMV; and

(c) Only be used for charges involving fees required for the submission of TODs which are sent to DMV by a facsimile device.

(2) Persons submitting a TOD by facsimile shall include on the TOD or transmittal the number of the account to be charged. Failure to do so may result in the TOD being rejected, returned or otherwise invalidated.

(3) The account number provided must be an account that is in the name of the person submitting the TOD.

(4) If an incorrect or invalid account number is provided, DMV may reject, return or otherwise invalidate the TOD.

(5) If DMV determines the account number provided is delinquent at the time the TOD is received, the TOD shall be rejected, returned or otherwise invalidated.

(6) Except as provided in section (1) of this rule, the fee required for a TOD shall be submitted with the TOD. Failure to comply or submission of less than the full fee required by law shall result in the TOD being rejected, returned or otherwise invalidated.

(7) Where a single payment (e.g., one check or money order) is submitted to cover multiple transactions and there is insufficient payment to cover all of the transactions, DMV shall apply the money as follows:

(a) Due to the time limits for filing TODs, DMV shall apply what money is available to any TODs submitted with that payment, before applying any of the payment to other types of transactions submitted with the payment;

(b) The TODs will be processed in the normal order of business, with no preference given to applying payment to any particular TOD; and

(c) If there is insufficient payment to pay for all TODs submitted, those not covered or not fully covered shall be rejected, returned or otherwise invalidated.

(8) Any fees received by DMV for a TOD shall be retained if the TOD has been marked as received by DMV, regardless of whether the TOD is subsequently invalidated.

Stat. Auth.: ORS 802.010 & Ch. 148 & 927, OL 1989
Stats. Implemented: ORS 803.130 - 803.138
Hist.: MV 20-1989, f. & cert. ef. 10-3-89

735-020-0045
Form of Titles and Ownership Records

Notwithstanding provisions of law that allow for titles in a form other than a certificate of title, except as otherwise provided by rule:

(1) All Oregon titles and salvage titles shall be issued in the form of a certificate of title.

(2) Primary ownership record, as defined in ORS 801.402, shall be in the form of a document as provided in OAR 735-020-0010 through 735-020-0030.

(3) Transitional ownership record, as defined in ORS 801.562, shall be in the form of a document as provided in OAR 735-020-0015 through 735-020-0040.

Stat. Auth.: ORS 184.616, 801.402, 801.562 & Ch. 233, OL 1993
Stats. Implemented: ORS 803.012
Hist.: MV 9-1993, f. 10-22-93, cert. ef. 11-4-93

735-020-0050
General Provisions Relating to Late Title Presentation Fees

All of the following apply to late title presentation fees as provided in ORS 803.105, and as used in OAR 735-020-0050 through 735-020-0060:

(1) Late title presentation fees shall not apply to persons who are not residents of this state, and who normally would not be subject to Oregon title transfer requirements, but who need to apply for an Oregon title before they can apply for title in the state in which they reside. For example where:

(a) A duplicate and transfer of an Oregon title must be obtained before the owner can apply for title in their home state; or

(b) Vehicle ownership has been acquired through transfer by operation of law in Oregon, (e.g. sheriff sale on abandoned vehicle) and the owner must obtain an Oregon title before title can be obtained in the owner's home state.

(2) "Vehicle documents" required to be delivered or presented to DMV to avoid payment of late title presentation fees mean — The current certificate of title, manufacturer's certificate of origin (MCO) or equivalent MCO, or other documents determined by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to be primary ownership documents as established in OAR 735-020-0010.

(3) The term "sale" means any transfer of the ownership interest in a vehicle from one owner to another for a consideration of value.

(4) Except as otherwise provided in this section, DMV shall consider a sale of a vehicle to have occurred any time there is a change in the owner as reflected on an Oregon title or title record. The term owner shall be as is defined in ORS 801.375. DMV shall not consider a sale to have occurred when:

(a) At least one of the owners reflected on the title is to remain on the new title as an owner;

(b) The transfer involves a change in the lessee where the lessor is remaining the same or where the lessor is to be shown as the owner on the new title;

(c) The transfer involves the repossession of the vehicle by the security interest holder, and the security interest holder is to be shown as the owner on the new title;

(d) The transfer in ownership is changing due to a court order where the court actually awards ownership of the vehicle;

(e) The transfer involves an inheritance where the person who is to be shown as the owner on the new title inherited the vehicle; or

(f) Any other transfer has occurred where DMV is provided with satisfactory documentation that the person to be shown as owner on the new title did not acquire their interest through the sale of the vehicle.

(5) All of the following apply to sale dates:

(a) DMV shall consider a release date or reassignment date on vehicle documents delivered or presented to DMV to be the sale date unless documentation satisfactory to DMV is presented; and

(b) Where there are conflicting release or assignment dates, no dates, or where the applicant indicates the date(s) shown does not reflect the actual date of sale, DMV may require additional documentation. Such documentation may include:

(A) Bills of sale, invoices or other documents that contain a sufficient description of the vehicle for DMV to identify it, and which reflect the date of sale;

(B) Written verification from the seller as to the date of sale; or

(C) A certification from the applicant.

(6) For purposes of computing time periods for late title presentation fees, the following shall apply:

(a) The first day (e.g., date of sale) shall be excluded;

(b) The last day (e.g., 30th or 60th day) shall be included; and

(c) If the last day falls on a Saturday, Sunday, or legal holiday observed by DMV, the last day shall be considered to be the next day DMV headquarters office is open for business.

Stat. Auth.: ORS 802.010, 803.105 & Ch. 148 & 452, OL 1989
Stats. Implemented: ORS 803.105
Hist.: MV 21-1989, f. & cert. ef. 10-3-89

735-020-0060
Delivery of Vehicle Documents, Good Faith Effort and Circumstances Beyond Person's Control

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall consider vehicle documents (primary ownership documents) delivered to DMV on the date the vehicle documents along with all title application requirements and fees are:

(a) Presented in person at a DMV office; or

(b) Mailed to DMV as evidenced by the postmark date:

(A) If there is more than one postmark date, the earliest date shall be used; and

(B) If there is no postmark date, or if it is not legible, the date received shall be determined as two days before the application was delivered to DMV.

(2) DMV shall consider a person to have made a "good faith effort" to deliver the primary ownership document to DMV within 30 days of sale, if the applicant:

(a) Presents the primary ownership document to DMV within 30 days of sale, whether or not all requirements for title are present;

(b) Submits application for title within 30 days of sale to a designated dealer from whom they purchased the vehicle; or

(c) Complies with subsection (a) or (b) of this section within 30 days from the day it is within their control to do so. This subsection only applies when failure to submit vehicle documents is due

to circumstances beyond the person's control as established in section (3) of this rule.

(3) DMV shall consider failure to deliver documents to be beyond the control of the applicant only when:

(a) The person did not have possession of the primary ownership document;

(b) The person became physically or mentally incapacitated following the purchase of the vehicle, directly preventing or making it impractical for the person to meet requirements for delivery of docu-ments; or

(c) The person delivered the documents or made a good faith effort to deliver documents within 30 days of the date it first became within their control to do so.

(4) Examples of situations DMV shall consider to be beyond a person's control include but shall not be limited to where:

(a) An applicant is involved in an automobile accident immediately following the purchase of the vehicle resulting in an extended hospital stay;

(b) An applicant suffers from a debilitating illness, condition or occurrence that prevents them from conducting business for an extended time period following vehicle purchase; or

(c) The vehicle is purchased from a dealer who fails to provide the purchaser with the primary ownership document.

(5) Examples of situations DMV would not consider to be beyond a person's control include but shall not be limited to situations where the:

(a) Applicant purchases a vehicle from a certified dealer and the dealer provides the primary ownership document to the purchaser within 25 days of the sale;

(b) Applicant purchases a vehicle from someone other than a certified dealer, and:

(A) The seller provides the applicant with the primary ownership document within 25 days of the sale;

(B) The seller fails to provide the applicant with the primary ownership document, but the delay was due to action or inaction on the part of the applicant, such as failure to make payment or to arrange for financing; or

(C) The applicant made no attempt to obtain the primary ownership document from the seller.

(c) Applicant sustained minor injury, or incurred a short-term hospital stay which did not directly affect their ability to conduct business or to otherwise comply with requirements for delivery of documents; or

(d) Applicant met requirements of subsections (3)(a) and (b) of this rule but failed to comply with section (3)(c) of this rule.

(6) An applicant who meets the requirements of subsections (3)(a) and (b) of this rule, but fails to comply with subsection (3)(c) of this rule shall become subject to the requirements for delivery of vehicle documents from the date it first becomes within their control to deliver the primary ownership document or to make a good faith effort. If they fail to deliver the primary ownership document or make a good faith effort:

(a) Within 30 days from that date they shall be subject to the $25 fee; and

(b) Within 60 days from that date, they shall be subject to the $50 fee.

(7) Should DMV decide to return or reject primary ownership documents delivered under section (2) of this rule, or which have subsequently been submitted to DMV by a dealer, this shall not void the good faith effort:

(a) DMV shall mark the primary ownership documents to indicate the date they were presented to DMV; and

(b) Upon subsequent application for title, it shall be the applicant's responsibility to provide the dated documents as proof of the good faith effort. If they fail to do so, and there is no other evidence that a good faith effort was made, any applicable late presentation fees shall be due.

Stat. Auth.: ORS 802.010, 803.105 & Ch. 148 & 452, OL 1989
Stats. Implemented: ORS 803.105
Hist.: MV 21-1989, f. & cert. ef. 10-3-89

735-020-0070
Junk Titles

(1) Pursuant to ORS 803.045, DMV will not issue an Oregon title or salvage title for a vehicle that has been issued a junk title, junk certificate, or similar ownership document, or junk or similar brand or notation that includes a word, term, brand or notation including but not limited to the following:

(a) Destroyed;
(b) Dismantled or Dismantler only;
(c) Hulk;
(d) Junk;
(e) Non-rebuildable;
(f) Non-repairable;
(g) Parts only;
(h) Scrap; or
(i) Wreck or Wrecker only.

(2) A designation as described in section (1) of this rule is based strictly on a determination made by another jurisdiction, as reflected on the current title or other ownership document issued by that jurisdiction.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.045
Stat. Implemented: ORS 803.045
Hist.: DMV 31-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; DMV 7-2004, f. & cert. ef. 5-24-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-020-0075
Release or Assignment of Interest; Oregon Title or Salvage Title

Authority and Purpose. This rule specifies the requirements for the release or assignment of interest shown on an Oregon-titled vehicle as required by ORS 803.094.

(1) Definitions. For purposes of ORS 803.094 and this rule:

(a) "Affiant" means the person who signs a small estate affidavit filed under ORS 114.515;

(b) "Assign," "assignment" or "assignment of interest" means the act of a lien holder, owner, or security interest holder transferring his or her interest in a vehicle to another person by signing the release section on an Oregon title, a secure odometer form, a bill of sale, or other document showing the transfer of the interest;

(c) "Authorized agent" means a person given a power of attorney by the owner of a vehicle for the purposes of transferring an interest in the vehicle;

(d) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;

(e) "Estate" means the real and personal property of a decedent;

(f) "Heir" means the person who is entitled under intestate succession to the property of a decedent who died wholly or partially intestate (without a will);

(g) "Interest" means a right, claim or legal share in a vehicle shown on an Oregon title, or other ownership document described in subsection (k) of this section;

(h) "Interest holder" means a lien holder, owner, or security interest holder;

(i) "MCO" means a Manufacturer's Certificate of Origin;

(j) "Operation of law" means a transfer or assignment of interest in a vehicle from one person to another person due to death, divorce, merger, consolidation, dissolution, bankruptcy, inheritance, devise or bequest, court order, dissolution decree, insolvency, seizure or foreclosure;

(k) "Other ownership document" means a primary ownership document as described in OAR 735-020-0010. For example, MCO, a sheriff's bill of sale, a court judgment or a completed signed Certification of Ownership Facts (DMV Form 735-550);

(l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or a legal or commercial entity;

(m) "Release" or "release of interest" means the act of a lien holder, owner, or security interest holder transferring an interest in

a vehicle by signing the release section on an Oregon title, a secure odometer form, a bill of sale, or other document showing the transfer of the interest. For purposes of these rules, transferring includes release, termination, assignment or transfer of an interest;

(n) "Representative," "authorized agency representative" or "personal representative" means a personal representing agent, government official, receiver, trustee, executor, administrator, or other representative with lawful right or authority to transfer an interest in a vehicle on behalf of the owner or by operation of law;

(o) "Title" means an Oregon certificate of title, Oregon salvage title, other ownership document or electronic equivalent issued by DMV, as evidence of ownership interest in a vehicle recorded in DMV's records;

(p) "Transferee" means a person to whom an interest in a vehicle is transferred, including but not limited to a purchaser of the vehicle;

(q) "Transferor" means any person who transfers an interest in a vehicle.

(r) "VIN" means vehicle identification number.

(2) General Requirements. Except as provided in section (6) of this rule, upon transferring an interest in an Oregon-titled vehicle, any person whose interest is released, terminated, assigned or transferred, or the person's representative, must release or assign that interest in writing. A release or assignment document must include the following:

(a) For the vehicle subject to the transfer, the make, model year, license plate number (if available) and VIN;

(b) The full name and signature of the transferor(s), or the transferor's representative;

(c) If available, the date the interest in the vehicle was released or assigned; and

(d) A statement or other indicator in the document that the vehicle was sold, ownership was transferred or released, or any interest, including a lien or security interest, was assigned, released, terminated or transferred.

(3) Although not required, a release or assignment document should include the name of the transferee.

(4) DMV will accept the following as a release or assignment document:

(a) The current title issued for the vehicle with the release/assignment section completed by the transferor(s) or the transferor(s) authorized agent;

(b) The vehicle's MCO with the release section completed by the dealer.

(c) A completed odometer disclosure that meets the requirements of ORS 803.120, 803.122 and OAR 735-028-0050; or

(d) A bill of sale or other document that meets the requirements of section (2) of this rule.

(5) Additional Requirements. In addition to the requirements of section (2) of this rule, a release or assignment of interest for a vehicle with a salvage title must comply with OAR 735-024-0170.

(6) Operation of Law. In addition to other applicable requirements of this rule, if an interest in a vehicle is transferred by operation of law as described in this section, a representative, an authorized agency representative, personal representative, heir, affiant, security interest holder, or lien claimant must release or assign the interest in the vehicle as follows:

(a) Transfer of Interest upon Death. The personal representative of an estate must sign the release or assignment document unless DMV receives:

(A) If the owner of the vehicle died intestate, an Inheritance Affidavit (DMV Form 735-516) signed by all of the heirs; or

(B) A Small Estate Certification (DMV Form 735-6797) signed by the affiant;

(b) Vehicle Repossession. The security interest holder or representative of the security interest holder must sign a Vehicle Repossession Certificate (DMV Form 735-263).

(c) Possessory Lien Foreclosure. A lien claimant must fulfill all legal requirements to foreclose a possessory lien on the vehicle and sign a certificate of possessory lien foreclosure form as specified in OAR 735-020-0012.

(d) Government Agency. A government agency may transfer interest in a vehicle in its custody, if it complies with relevant legal requirements and, at the time of transfer, provides the transferee a certificate of sale, bill of sale or similar document that contains:

(A) A citation of the legal authority authorizing the government agency to transfer or assign interest in the vehicle;

(B) The make, model, year and VIN of the vehicle subject to the transfer; and

(C) The full name and signature of an authorized agency representative.

(7) A person who assigns or releases a partial interest in a vehicle but will remain on the vehicle title as an owner, does not need to complete an assignment or release document. However, the person must acknowledge that the addition of a new owner on the title is authorized by signing:

(a) A title application that lists the additional owner; or

(b) A written document that identifies and permits the addition of the additional owner on the title.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.094
Stats. Implemented: ORS 803.015 & 803.094
Hist.: DMV 11-2007, f. & cert. ef. 11-30-07

735-020-0080
Notice of Transfer of Interest in a Vehicle

(1) This rule specifies the requirements for a notice of transfer of interest in a vehicle covered by an Oregon title, under ORS 803.112 and 803.117, and when DMV will provide a receipt that the notice has been submitted.

(2) Notice submitted under ORS 803.112 and 803.117 must contain the following information:

(a) The vehicle identification number (VIN);

(b) The vehicle registration plate number;

(c) The full name of the person who transferred an interest in the vehicle (seller/transferor); and

(d) The full name of the transferee (new owner/buyer).

(3) Notice meeting the requirements of section (2) of this rule must be submitted to DMV:

(a) In writing, and includes a Notice of Sale or Transfer of a Vehicle form (DMV Form 6890), a completed seller notice on the back of the vehicle's registration card or any other written document that contains the required information. Written notice may be delivered to any DMV office or mailed to DMV Headquarters; or

(b) Electronically, using DMV's online Notice of Sale or Transfer form as set forth in OAR 735-018-0120.

(4) At DMV's discretion, notice meeting the requirements of section (2) of this rule may be faxed or submitted by telephone.

(5) For purposes of ORS 803.112, notice meeting the requirements of sections (2) and (3) of this rule must be submitted within 10 days of the date of a transfer of interest in the vehicle.

(6) DMV will provide a receipt showing a notice as described in sections (2) and (3) of this rule has been submitted to DMV:

(a) At the request of a person who submits the notice in-person at a DMV field office,

(b) Electronically, if the notice is submitted as set forth in OAR 735-018-0120 and the electronic submission is successfully completed.

(7) DMV will not provide a receipt showing a notice as described in sections (2) and (3) of this rule has been submitted to DMV, if the notice is mailed or faxed to DMV or submitted to DMV by telephone.

Stat. Auth.: ORS 184.616, 184.619, 803.112, 803.113, 803.117 & ch 579, OL 2009
Stat. Implemented: ORS 803.112, 803.113, 803.117 & ch 579, OL 2009
Hist.: DMV 27-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 12-2004, f. & cert. ef. 6-24-04; DMV 21-2009, f. 12-22-09, cert. ef. 1-1-10

DIVISION 22

TITLE ISSUANCE

735-022-0000
Evidence of Ownership to a Vehicle

(1) DMV has established the following as evidence of ownership of a vehicle:

(a) A manufacturer's certificate of origin (MCO) as defined in OAR 735-022-0030.

(b) A vehicle title or bill of sale from the owner(s) of record.

(c) A completed, signed Certification of Ownership Facts (DMV Form 550).

(d) A transfer by operation of law including a judgment awarding ownership interest in a vehicle, an estate settlement document or inheritance affidavit (DMV Form 516), or a Vehicle Repossession Certificate (DMV Form 263).

(e) For a reconstructed or assembled vehicle, a bill of sale to the frame or unibody, whichever is applicable.

(2) DMV will not issue title for a manufactured trailer without a bill of sale for the axle or trailer frame.

(3) Nothing in this rule limits DMV's discretion to request or consider other information to establish evidence of ownership of a vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045, 803.050 & 821.060
Stats. Implemented: ORS 803.045 & 803.050
Hist.: MV 7-1980, f. & ef. 5-27-80; Administrative Renumbering 3-1988, Renumbered from 735-071-0071; MV 3-1993, f. & cert. ef. 4-16-93; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 3-2014, f. & cert. ef. 5-19-14

735-022-0030
Manufacturer's Certificate of Origin (MCO) Definitions

The following definitions apply to OAR 735-022-0000 through 735-022-0060:

(1) "Manufacturer's certificate of origin" (MCO), "manufacturer's statement of origin" (MSO), or a "certificate of origin" means a transitional ownership document issued by a manufacturer to a specific vehicle, or if a multi-stage vehicle, to a specific component of the vehicle and includes a "manufacturer's statement of origin" (MSO), a certificate of origin or similar term. An MCO is used to convey ownership from the manufacturer to a franchised dealer or distributor and from the franchised dealer or distributor to a
purchaser.

(2) "Glider kit" means:

(a) A kit consisting of a new truck cab or cab and hood assembly, including a front axle assembly and frame rails, with or without an engine, transmission and rear axle, manufactured and sold with an MCO, that has been used to replace damaged or worn components of an existing heavy truck or tractor; or

(b) A heavy truck or tractor assembled using a kit consisting of all new component parts, including engine, transmission and rear axle, manufactured and sold with an MCO, and assembled by a person other than the manufacturer of the components.

(3) Heavy truck or tractor" means a truck or tractor with a gross vehicle weight rating of more than 16,000 pounds.

(4) "Manufacturer" means a person in the business of manufacturing or assembling new vehicles.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045 & 803.050
Stats. Implemented: ORS 803.045
Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0500; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 3-2014, f. & cert. ef. 5-19-14

735-022-0040
Manufacturer's Certificate of Origin (MCO) Form and Content

(1) An MCO must be issued by the vehicle's manufacturer or the manufacturer's authorized representative and must include the following:

(a) The name of the manufacturer;

(b) The vehicle year model, make and VIN;

(c) The name of the franchised dealer, distributor or purchaser to whom interest has been assigned; and

(d) The signature of the manufacturer.

(2) In addition to the requirements described in section (1) of this rule, an MCO issued for a vehicle manufactured in multiple stages, for example, a vehicle manufactured as a kit or glider kit, must include assignments of interest for each stage of manufacture. In addition, the MCO must:

(a) Contain the vehicle year model, if the MCO is from the final stage manufacturer; or

(b) Indicate the vehicle is incomplete and identify what portion of the vehicle is covered by the MCO.

(3) An MCO issued for a glider kit must identify that the MCO is for a kit or glider kit and contain at least the following:

(a) The name of the glider kit manufacturer;

(b) The glider kit year model, make and VIN; and

(c) The name of the party to whom interest has been assigned.

(4) If the MCO does not contain the required information, DMV may:

(a) Require further documentation;

(b) Refuse to issue title; or

(c) Both subsections (a) and (b) of this section.

Stat. Auth.: ORS 802.010, 803.045, 803.050
Stats. Implemented: ORS 803.045
Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0510; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 16-2006, f. & cert. ef. 11-17-06

735-022-0050
When Manufacturer's Certificate of Origin (MCO) Is Required

(1) A MCO must be submitted with an application for title for a vehicle built by a manufacturer or a reconstructed heavy truck or tractor built using a glider kit.

(2) For vehicles built in stages by two or more manufacturers, an MCO is required from each manufacturer for the portion of the vehicle manufactured.

(3) For reconstructed heavy trucks or tractors rebuilt using a glider kit, the MCO provided must be for the glider kit.

(4) An MCO is not required if the manufactured vehicle or reconstructed vehicle has been titled or registered in any jurisdiction.

(5) DMV may require or accept an MCO in other situations. Example: When a person (other than a manufacturer) builds a vehicle and an MCO is issued for some or all of the major component parts (i.e., frame, chassis, motor).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045 & 803.050
Stats. Implemented: ORS 803.045
Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0520; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 3-2014, f. & cert. ef. 5-19-14

735-022-0060
Documents Equivalent to Manufacturer's Certificate of Origin (MCO)

(1) DMV may accept other documents in place of an MCO if:

(a) The original MCO has been lost or destroyed;

(b) The vehicle was not manufactured for sale in the U.S. and an MCO was never issued;

(c) The vehicle was manufactured in multiple stages and an MCO was not issued for the first stage, or if any part of the vehicle has already been titled or registered; or

(d) The manufacturer does not issue MCOs.

(2) Documents that may be accepted under this rule, must include evidence of releases of interest forming a complete chain of ownership from the current applicant back to the point of manufacture. If any part of the vehicle has been titled or registered, the chain of ownership for that part of the vehicle must go back to the last owner of record.

(3) Examples of documents DMV may consider under this rule include:

(a) If the MCO is lost or destroyed, a copy of the manufacturer's invoice to the dealer. The invoice must be signed by the owner or office manager of the dealership and provide information as to the disposition of the original MCO; or

(b) A letter from the manufacturer indicating to whom the interest of the vehicle was assigned with connecting bills of sale from subsequent purchasers.

(4) DMV may withhold issuance of title even if equivalent documents are provided if it has reason to believe the MCO is available or that it may be in the possession of a third party.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045 & 803.050
Stats. Implemented: ORS 801.402
Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0530; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 3-2014, f. & cert. ef. 5-19-14

735-022-0065
Vehicle Dealer Expedited Title Services

This rule establishes the criteria and requirements for expedited titling services as provided under chapter 14 Oregon Laws 2014.

(1) A vehicle dealer who requests an expedited Oregon title must hold a current valid vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040, and be designated as an agent of DMV pursuant to ORS 802.031 and OAR 735-0150-0040. The dealer must submit the following to DMV for each expedite request:

(a) A completed and signed Application for Oregon title, the appropriate title fee, and any other required documents or fees. The application must have the dealer transaction box checked and in the REMARKS section, include the dealer's certificate number and the word "EXPEDITE";

(b) The fee established under chapter 14 Oregon Laws 2014 for providing an expedited title. The fee is non-refundable;

(c) To request to pick up a processed title at the DMV Business Regulation Section in Salem, a written request to pick up the title. The request must contain the phone number, email address and name of the person that DMV will notify when the title is ready for pick up. If no such request is submitted, the title will be sent by U.S. Mail to the person and address specified on the title application.

(2) Applications for dealer expedited titling services may be:

(a) Mailed to: OREGON VEHICLE DEALER EXPEDITE TITLE SERVICE, DMV Services, 1905 Lana Avenue NE, Salem, Oregon 97314; or

(b) Hand delivered to DMV Business Regulation Section, 1965 Lana Avenue NE, Salem, Oregon 97314. Drop off times are Monday through Friday, 8 a.m. to 4:30 p.m., except state holidays or a closure due to inclement weather.

(3) Upon notification by DMV, a title requested for pick up under subsection (1)(c) of this rule will be available for pick up at DMV Business Regulation Section, 1965 Lana Avenue NE, Salem, Oregon 97314. Pick up times are Monday through Friday, 8 a.m. to 4:30 p.m., except state holidays or a closure due to inclement weather:

(a) Only the person whose name is printed on a title, or a third party authorized by that person, may pick up a processed title. An authorized third party must submit a completed and signed Third Party Authorization to Pick up a Dealer Expedite Title (DMV Form 735-7287) at the time of pick up.

(b) The person picking up a title must present valid government-issued photo identification at the time of pick up.

(4) Expedited titling services under this rule:

(a) Are limited to an application for title or replacement title;

(b) May be delayed when a title application is missing required information, documents or fees.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.031, 803.140, 803.207, 822.043, Ch. 14 OL 2014
Stats. Implemented: Ch. 14 OL 2014
Hist.: DMV 15-2014, f. 12-1-14, cert. ef. 1-1-15

735-022-0070
Inspection of Vehicle Identification Numbers

DMV adopts the following procedures relating to the inspection of the vehicle identification number (VIN) of a vehicle under ORS 803.212:

(1) DMV may designate a state agency, certified vehicle dealer or a law enforcement agency to act as an agent of DMV to perform VIN inspections under ORS 803.212. A state agency or law enforcement agency that wishes to be designated to perform VIN inspections must enter into a VIN inspection agreement with DMV.

(2) For purposes of this rule "agent" means a state agency, certified vehicle dealer or law enforcement agency designated by DMV to conduct VIN inspections on behalf of DMV.

(3) DMV may authorize a law enforcement agency to perform VIN inspections on any vehicle in the agency's custody.

(4) DMV, in its discretion, may limit the type of VIN inspections an agent may perform.

(5) Only DMV, the Oregon State Police (OSP) or other Oregon law enforcement agency acting as an agent of DMV, may perform a VIN inspection on a vehicle located in Oregon if:

(a) The vehicle is assembled;

(b) The vehicle is reconstructed;

(c) The vehicle is a replica;

(d) DMV has received notice that the vehicle has been or will be wrecked, dismantled, disassembled or substantially altered under ORS 819.010 or 822.133;

(e) The vehicle is from another jurisdiction and documents presented show the vehicle has been damaged (i.e., salvage bills of sale, salvage title, etc.);

(f) The vehicle is imported and the original manufacturer did not certify that it complies with federal vehicle standards as described in OAR 735-022-0080; or

(g) The vehicle has been reported to DMV as a totaled vehicle. This does not apply to a vehicle reported totaled due to theft and later recovered in a condition that no longer meets the definition of "totaled vehicle" under ORS 801.527.

(6) DMV may designate any person or agency to perform VIN inspections on vehicles in other jurisdictions, including:

(a) A law enforcement agency or entity with administrative or regulatory authority for vehicles within the jurisdiction;

(b) For vehicles owned by U.S. armed services personnel, the owner's commanding officer, Provost Marshal or other person in authority as authorized by DMV; or

(c) Anyone designated by DMV under a written agreement.

(7) The inspection fee established under ORS 803.215 is required for inspections performed under ORS 803.210. The fee does not apply to inspections performed outside Oregon.

(8) If a vehicle does not have a VIN, DMV will assign one and affix it to the frame. When a VIN is assigned, the title record will indicate the VIN assigned by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.212
Stats. Implemented: ORS 803.212
Hist.: MV 2-1983, f. 3-19-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 1-1985, f. & ef. 1-30-85; MV 19-1986, f. & ef. 12-1-86; MV 28-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0009; DMV 14-1994, f. & cert. ef. 11-22-94; DMV 14-2001, f. & cert. ef. 8-13-01; DMV 16-2006, f. & cert. ef. 11-17-06

735-022-0080
Definitions Relating to Proof of Compliance with Federal Vehicle Standards

The following definitions apply to OAR 735-022-0090:

(1) "EPA" means the U.S. Environmental Protection Agency;

(2) "Federal vehicle standards" as used in Division 22 and ORS 803.045 mean:

(a) Federal Motor Vehicle Safety Standards and Regulations as specified by NHTSA under 49 CFR, Part 571; and

(b) Motor Vehicle Emissions Standards specified by the EPA under 40 CFR, Part 52.

(3) "Manufacturer" means a person in the business of manufacturing or assembling new vehicles.

(4) "NHTSA" means the U.S. Department of Transportation, National Highway Traffic Safety Administration.

(5) "State" means a State of the United States, the District of Columbia and Puerto Rico. For purposes of this rule, "state" does not include the Northern Mariana Islands, Guam, American Samoa, or the Virgin Islands.

(6) "U.S." means the United States of America and includes all States of the United States as defined in section (5) of this rule.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045
Other Authority: 40 CFR Part 52, subpart MM and 49 CFR Part 571
Stats. Implemented: ORS 803.045
Hist.: MV 6-1986, f. 3-13-86, ef. 3-17-86; Administrative Renumbering 3-1988, Renumbered from 735-090-0550; DMV 16-2006, f. & cert. ef. 11-17-06

735-022-0090
Proof of Compliance with Federal Vehicle Standards

(1) Proof of compliance with federal vehicle standards is required when DMV is not satisfied, based on the ownership documents, that the vehicle complies with federal vehicle standards, DMV has reason to believe the vehicle does not comply, or DMV receives an application for Oregon title and the application is submitted with an ownership document issued by:

(a) A jurisdiction outside of the U.S.;

(b) The U.S. military; or

(c) A person other than a U.S. authorized distributor for the vehicle listed on the manufacturer's certificate of origin (MCO).

(2) DMV may accept the following as proof that a vehicle complies with federal vehicle standards:

(a) For a vehicle imported by the U.S. military or military personnel, a written notice or form issued by the U.S. military that indicates the vehicle meets federal vehicle standards;

(b) A Dealer Certification of Compliance with Federal Emission and Safety Standards (DMV Form 7290) for a motorcycle or moped, completed by an Oregon vehicle dealer with a current valid vehicle dealer certificate;

(c) An original letter from the manufacturer or U.S. authorized distributor that includes the VIN and that states that the vehicle meets EPA standards and can be modified to meet federal safety equipment standards. The letter must be accompanied by a Certification of Compliance with Federal Emission and Safety Standards (DMV Form 7286); or

(d) For a vehicle with an ownership document issued outside of the U.S., a U.S. Customs form that contains all of the following:

(A) A vehicle description that includes the year model, make and VIN; and

(B) Written approval from U.S. Customs indicating that the vehicle complies with federal vehicle standards. For example, a form issued by U.S. Customs with an approval stamp or the signature of an authorized U.S. Customs agent.

(3) Proof of compliance with federal vehicle standards is not required if:

(a) The vehicle is or has been titled or registered in the U.S.;

(b) The MCO submitted to DMV indicates the vehicle was manufactured for use in the U.S.; or

(c) DMV receives an original statement from the manufacturer that indicates the vehicle complies with federal vehicle standards.

(4) Notwithstanding sections (2) and (3) of this rule, DMV may refuse to issue title and registration if DMV has reason to believe:

(a) The vehicle does not meet federal vehicle standards; or

(b) The vehicle is not primarily manufactured for operation on U.S. roads or highways.

(5) This rule shall be applied retroactively to May 1, 2009.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045
Other Authority: 40 CFR Part 52, subpart MM and 49 CFR Part 571
Stats. Implemented: ORS 803.045
Hist.: MV 6-1986, f. 3-13-86, ef. 3-17-86; MV 3-1988, f. & cert. ef. 2-2-88; Administrative Renumbering 3-1988, Renumbered from 735-090-0560; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 13-2009, f. & cert. ef. 8-24-09; DMV 3-2014, f. & cert. ef. 5-19-14

735-022-0100
Leased Vehicles

(1) As provided in ORS 801.375(1)(b), whether a lessee is to be shown on a title certificate as the owner, shall depend on whether the lessee is designated as the owner on the application for title.

(2) Notwithstanding section (1) of this rule, the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall require that the lessee be shown on the title as the owner, when such designation is required.

(3) Situations where section (2) of this rule shall apply, include situations where the person qualifying for or required to have the special type of registration or plates is the lessee, or where in order to qualify, the vehicle owner must:

(a) Be issued a business certificate related to the operation or use of the vehicle;

(b) Be the owner or operator of a business in which the vehicle is used;

(c) Certify under penalty of law, that the vehicle will be used or operated in accordance with specified requirements or restrictions; or

(d) Otherwise meet qualifications or requirements that only apply to the lessee.

(4) Examples of registration or plate types where the lessee shall be required to be shown as owner on the title, include but not be limited to:

(a) Government-owned vehicles registered under ORS 805.040 or 805.045, where the government entity is the lessee;

(b) Farm vehicles registered under ORS 805.300 through 805.400;

(c) Tow and recovery vehicles issued special plates or identification devices under ORS 822.210 or 822.217;

(d) Vehicles with a registration weight of more than 8,000 pounds that are described in ORS 767.022, vehicles operated by charitable organizations as described in 767.025(15), and vehicles which are used exclusively to transport mobile homes, when such vehicles are registered under 803.420(11); or

(e) Amateur radio operator plates where the lessee is the person that holds the license issued by the Federal Communication Commission.

Stat. Auth.: Ch. 551 (OL 1991), 802.010, 805.040, 805.045, 805.300 - 805.400 & 822.210
Stats. Implemented: ORS 803.050
Hist.: MV 25-1991, f. & cert. ef. 11-13-91

735-022-0110
Use of Vehicle Model on Titles and Salvage Titles

(1) Except as otherwise provided in this rule, the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall include the vehicle model name on certificates of title and salvage titles if:

(a) The vehicle is a motor vehicle that has a year model of 1981 or newer;

(b) The motor vehicle would be classed under Oregon registration laws as a motor truck, motorcycle, moped or vehicle commonly referred to as a passenger vehicle or similar motor vehicle registered under ORS 803.420(1); and

(c) The model can be determined from the vehicle identification number using DMV's data processing software package.

(2) DMV may elect to not show the model, or to record a model different than what is indicated by the vehicle identification number, if:

(a) The vehicle has been assembled, reconstructed, is a replica vehicle, or was manufactured in more than one stage;

(b) The designated model does not reflect what the vehicle looks like; or

(c) DMV is unsure of the actual model.

(3) DMV shall not include model information on titles or salvage titles for non-motor vehicles, and shall not routinely include model information for motor vehicles other than those covered in section (1) of this rule.

(4) The owner shall return the title or salvage title to DMV for correction, if a model is reflected in error on the title (e.g., the certificate of origin incorrectly identified the vehicle).

(5) DMV may include the vehicle model for a motor vehicle not covered in section (1) of this rule if DMV can verify the actual model and the National Crime Information Center has established a standard abbreviation for the model. This includes, but is not limited to, a specific request by the owner to include the model on the title.

(6) DMV may abbreviate a model name to fit in the space allotted on the certificate of title or registration.

(7) The model name shall not be required information on applications for title or registration, except when the model otherwise is required to be part of an odometer disclosure.

(8) This rule shall apply only to titles or salvage title issued on or after July 1, 1992.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 821.060, 821.080 & Ch. 873 (OL 1991)

Stats. Implemented: ORS 803.015

Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

735-022-0130
Titling All-Terrain Vehicles and Emergency Fire Apparatus

(1) For purposes of this rule, the following definitions apply:

(a) Class I all-terrain vehicle is defined as set forth in ORS 801.190.

(b) Class III all-terrain vehicle is defined as set forth in ORS 801.194(1).

(c) Class IV all-terrain vehicle is defined as set forth in ORS 801.194(2).

(d) "Emergency fire apparatus" means a vehicle such as, but not limited to, a fire truck, fire engine, tanker or any other similar vehicle that is primarily designed and used for public fire protection and suppression.

(e) "Fire service agency" means a unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide public fire protection and suppression services in Oregon, including, but not limited to, the Oregon Department of Forestry, a rangeland fire protection association, a rural fire protection district, a city fire department, or a private fire department.

(2) DMV may issue an Oregon title for an emergency fire apparatus that is owned by a fire service agency and is exempt from title requirements under ORS 803.030(8), or for Class I, Class III or Class IV all-terrain vehicles that are exempt from title requirements under ORS 803.030(3), if the vehicle owner:

(a) Submits an application for Oregon title that meets the requirements of ORS 803.050; and

(b) Meets the qualifications for issuance of title under ORS 803.045, including but not limited to payment of all required fees and submission of evidence of ownership as described in OAR 735-022-0000;

(3) Effect of Title. Upon issuance of an Oregon title under section (2) of this rule:

(a) A vehicle is not authorized to operate on Oregon highways unless the vehicle is lawfully registered in Oregon or a jurisdiction where the owner is domiciled or is a resident, or the vehicle is exempt from registration requirements under ORS 803.305;

(b) The owner must comply with all applicable state and federal laws, rules and regulations related to the titling of vehicles; and

(c) The vehicle must remain titled in Oregon and is subject to all provisions of the Oregon law applicable to vehicles titled in Oregon until the vehicle is legally titled under the laws of another jurisdiction or an Oregon salvage title is issued.

(4) Notwithstanding section (2) of this rule, DMV may refuse to issue an Oregon title if issuance of an Oregon title violates the law of another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.030 & 803.035

Stats. Implemented: 803.010, 803.030, 803.035, 803.040, 803.045 & 803.092

Hist.: DMV 5-2012, f. & cert. ef. 5-18-12

DIVISION 24

ASSEMBLED/RECONSTRUCTED/ ALTERED/DAMAGED VEHICLES

735-024-0015
Definitions; Title Brands

As used in this rule through 735-024-0025, the following definitions apply:

(1) "Brand," "branded title," or "title brand" means a notation, inscription, indicator, symbol or phrase that is or has been printed, inscribed, stamped or otherwise affixed to a certificate of title to indicate the history, condition, or circumstances of a vehicle. A title brand does not necessarily indicate the extent to which a vehicle may have been damaged, whether a vehicle has been repaired or to what degree a damaged vehicle has been repaired.

(2) "Assembled vehicle" as defined in ORS 801.130 and these rules means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(3) The following title brands defined under this section are adopted pursuant to 2009 Or. Laws, Ch. 448 and ORS 803.015. Title brands indicate a determination of a vehicle's condition made by another jurisdiction, or in the case of "glider kit," "reconstructed," "replica vehicle," "totaled" or "Lemon Law Buyback," a determination made by Oregon DMV:

(a) "Branded" means:

(A) A listing of two or more brands on an out-of-state title or similar document; or

(B) A brand not specifically defined or identified under this rule.

(b) "Flood damaged," "flood," or a word of similar import means a brand to indicate that a vehicle has been submerged in water to the point that the vehicle sustained damage;

(c) "Glider kit" or a word of similar import means a brand to indicate:

(A) A kit consisting of a new truck cab or cab and hood assembly, including a front axle assembly and frame rails, with or without an engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, has been used to replace damaged or worn components of an existing heavy truck or tractor; or

(B) A heavy truck or tractor was assembled using a kit consisting of all new component parts, including engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, and assembled by a person other than the manufacturer of the components.

(C) For purposes of this subsection, "heavy truck or tractor" means truck or tractor with a gross vehicle weight rating of more than 16,000 pounds.

(d) "Lemon," "lemon-defective," "Lemon Law Buyback," "returned to manufacturer," or a word of similar import means a brand to indicate a vehicle was returned to the manufacturer because of a defect or condition that could not be corrected or repaired and that substantially impaired the safety, market value, or the use, or intended use, of the vehicle.

(e) "Previous damage" means a title brand issued by DMV prior to August 20, 2004, to indicate that DMV had received information from another jurisdiction that a vehicle was damaged, destroyed, wrecked or salvaged, or words of similar import. The term "previous damage" does not apply to vehicles issued a junk title or similar ownership document by another jurisdiction as described under OAR 735-020-0070;

(f) "Reconstructed vehicle," or "reconstructed" as defined in ORS 801.408 and these rules, means either:

(A) A vehicle that:

(i) Has a body that resembles and primarily is a particular year model or make of vehicle;

(ii) Is not a vehicle rebuilt by a manufacturer;

(iii) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(iv) Is not a replica; or

(B) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification

number and provides a manufacturer's certificate of origin for the kit.

(g) "Totaled vehicle" or "totaled" as defined in ORS 801.527 and these rules means a vehicle that:

(A) Is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to.

(B) Is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer.

(C) Has sustained damage that is not covered by an insurer and the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle before it was damaged. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state, including but not limited to the Title and Registration Textbook of the National Automobile Dealers Association (N.A.D.A. Guide), the Automobile Red Book or the Kelley Blue Book .

(h) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer.

(4) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;

(5) "Oregon Certificate of Title" or "Oregon title" means a certificate of title, as that term is defined in ORS 801.185, issued by DMV.

(6) "Oregon Salvage Title Certificate" means a written document issued by DMV under the provisions of ORS 803.140 and 819.016 as evidence of vehicle ownership. An Oregon Salvage Title Certificate is not an Oregon Certificate of Title.

(7) "Salvage title," "salvage certificate" and "dismantler (wrecker) bill of sale" means a document issued by another jurisdiction to indicate the vehicle has been damaged, wrecked or salvaged or words of similar import. "Salvage title" does not refer to an Oregon salvage title certificate as defined by ORS 801.454 and this rule, unless the Oregon salvage title certificate reflects a brand that indicates the vehicle was damaged in another jurisdiction, before being titled in Oregon.

(8) "Word(s) of similar import" means any word, term, indicator, symbol or phrase that means the same or has the same effect as the terms described under OAR 735-020-0070 (junk titles) and defined under sections (2) and (3) of this rule.

(9) For purposes of this rule, OAR chapter 735, division 024, division 152, ORS Chapters 819 and 822, "Auto Recycler" has the same meaning as "dismantler" as defined under ORS 801.236 and means a person issued a dismantler certificate under 822.110.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.140, 819.016, 821.060 & 2009 OL Ch. 448

Stats. Implemented: ORS 803.015, 803.420 & 2009 OL Ch. 448

Hist.: DMV 18-2004, f. & cert. ef. 8-20-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 17-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10; DMV 6-2010, f. & cert. ef. 2-25-10

735-024-0025
Title Brands; When Issued, Removed and Exceptions

(1) When Issued. DMV will issue a branded title or a title with an "assembled" make when an application for an Oregon title is submitted and:

(a) The vehicle's title carries a brand(s) described under OAR 735-024-0015(2) and (3);

(b) Pursuant to 2009 Or. Laws, Ch. 448, DMV receives notice from a vehicle manufacturer to inscribe "Lemon Law Buyback" on the certificate of title for the vehicle.

(c) The vehicle meets the definition of an "Assembled vehicle" as defined under OAR 735-024-0015(2); or

(d) The vehicle meets the definition of a "Reconstructed Vehicle," a "Replica" or a "Totaled vehicle" as those terms are defined under OAR 735-024-0015.

(e) Will be issued with a brand or "assembled" make described under OAR 735-024-0015.

(2) An Oregon title issued under section (1) of this rule:

(a) Will not necessarily be issued with the same brand that appeared on the vehicle's previous certificate of title or other ownership document(s);

(b) Will be issued with a brand described under OAR 735-024-0015 determined by DMV to be most comparable to the brand that appeared on the previous certificate of title. This subsection does not apply to a "branded" brand or an Oregon title with a "Lemon Law Buyback" brand, issued pursuant to 2009 Or. Laws, Ch. 448;

(c) Will indicate the name of the jurisdiction that issued the title brand, unless the title brand was issued by DMV; and

(d) Will be issued with a brand or "assembled" make described under OAR 735-024-0015 when DMV determines from a previous title or vehicle record, from the application for title or from information obtained from any source that a brand or "assembled" make should be placed on the Oregon title as set forth in section (1) of this rule. DMV may require documentation to determine if a vehicle should be issued an Oregon title with an "assembled" make, or a "reconstructed" or "replica" brand.

(3) Except as specifically provided in section (4) of this rule, once a title brand or "assembled" make has been placed on a vehicle's Oregon Certificate of Title that brand or "assembled" make will appear on any subsequent Oregon title issued for the vehicle.

(4) DMV may omit, remove, add or change a title brand or "assembled" make when:

(a) DMV receives information that indicates an Oregon title or Oregon Salvage Title Certificate was issued with an incorrect brand or "assembled" make. For example, DMV receives written information from an originating jurisdiction that indicates its title incorrectly reflects a title brand;

(b) DMV is satisfied the title brand or "assembled" make was placed on the Oregon title or Oregon Salvage Title Certificate in error;

(c) DMV failed to place a title brand or "assembled" make on the Oregon title or Oregon Salvage Title Certificate when required under section (1) of this rule or subsections (d), (e) and (f) of this section.

(d) A subsequent accident or occurrence causes the vehicle to be identified with a brand or different brand such as "totaled," "reconstructed," or "Lemon Law Buyback" issued pursuant to 2009 Or. Laws, Ch. 448.

(e) A vehicle issued an Oregon title with any brand or an "assembled" make other than totaled is reported to DMV as a totaled vehicle under ORS 819.012 or 819.014. Except as described in subsection (f) of this section, if DMV issues a new Oregon title, it will include a totaled brand, which replaces any previous brand shown on the Oregon title. For example, a vehicle issued an Oregon title with a flood brand will be issued an Oregon title with a totaled-reconstructed brand when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle;

(f) Notwithstanding subsection (e) of this section, a vehicle issued an Oregon title with an "assembled" make, or glider kit, "Lemon Law Buyback" issued pursuant to 2009 Or. Laws, Ch. 448, reconstructed or replica brand is reported to DMV as a totaled vehicle. If DMV issues a new Oregon title, it will include the original brand and a totaled brand. For example, a vehicle issued an Oregon title with a "replica" brand that is later reported to DMV as "totaled" under ORS 819.020 or 819.014, will be issued an Oregon title with a "replica-totaled-reconstructed" brand when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle; or

(g) The reason the vehicle was reported to DMV as a totaled vehicle is theft and the vehicle is recovered and no longer meets the definition of a "totaled vehicle" under ORS 801.527.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016, 821.060 & 2009 OL Ch. 448

Stats. Implemented: ORS 803.015, 803.420 & 2009 OL Ch. 448

Hist.: DMV 18-2004, f. & cert. ef. 8-20-04; DMV 10-2005, f. 3-18-05; DMV 17-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10; DMV 6-2010, f. & cert. ef. 2-25-10

735-024-0030
Definitions Relating to Vehicles and Documents for Vehicles that Have Been Damaged, Altered, or Rebuilt

The following definitions and application of terms apply to OAR 735-024-0030 through 735-024-0170:

(1) "Accepting Vehicles as Salvage Material" as used in ORS 819.040, means to receive or purchase a vehicle that has already been wrecked, dismantled, or disassembled.

(2) "Assembled Vehicle" as defined in ORS 801.130 and these rules, means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(3) "Brand," "branded title" or "title brand" means a notation, indicator, symbol or phrase that is or has been printed, stamped or otherwise affixed to a certificate of title to indicate the history, condition, or circumstances of a vehicle. A title brand does not necessarily indicate the extent to which a vehicle may have been damaged, whether a vehicle has been repaired or to what degree a damaged vehicle has been repaired.

(4) "Certificate of Title" or "title" is defined in ORS 801.185. A title:

(a) May be issued by Oregon or some other jurisdiction;

(b) When issued by Oregon, is issued under ORS 803.045 or as is provided in 821.060;

(c) Except where designated, does not include a "salvage title certificate," "salvage title" or "salvage certificate";

(d) Is not issued to vehicles that:

(A) Are dismantled, disassembled, or substantially altered;

(B) Are otherwise in a condition that would require the title to be surrendered to the DMV for cancellation; or

(C) Have been issued a junk title, junk certificate or similar ownership document or brand as described in OAR 735-020-0070.

(e) Follows the frame or unibody of the vehicle for which the title was originally issued.

(5) "Dismantle" and "Disassemble" are defined in OAR 735-024-0050.

(6) "Frame" or "Unibody" refer to the major component(s) of a vehicle that form the support structure, undercarriage or lower structure of the vehicle, excluding such things as wheels or suspension. "Frame" does not include the body of the vehicle.

(7) "Insurer" as used in ORS 801.527 and 819.014 and in these rules, means a person engaged in the business of entering into policies of insurance. The term does not include persons who are self-insured.

(8) "Primary Ownership Document" is defined in ORS 801.402 and OAR 735-020-0010.

(9) "Proof of Compliance" means a document issued by DMV as evidence that:

(a) The title or primary ownership document was surrendered to DMV in accordance with ORS 819.010, 819.012 or 819.014; and

(b) The title or primary ownership document was marked, or DMV received other documentation that satisfied DMV that the vehicle was wrecked, dismantled, disassembled or totaled.

(10) "Reconstructed Vehicle," or "reconstructed" as defined in ORS 801.405 and these rules, means either:

(a) A vehicle that:

(A) Has a body that resembles and primarily is a particular year model or make of vehicle;

(B) Is not a vehicle rebuilt by a manufacturer;

(C) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(D) Is not a replica; or

(b) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit.

(11) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer.

(12) "Salvage Title Certificate," "Oregon Salvage Title Certificate" or "salvage title" as defined in ORS 801.454 and this rule means a written document issued by DMV under the provisions of ORS 803.140 and 819.016 as evidence of vehicle ownership. Unless designated otherwise, an Oregon Salvage Title Certificate is not a certificate of title.

(13) "Salvage title," "salvage certificate," and "dismantler (wrecker) bill of sale" means a document issued for a vehicle to indicate the vehicle has been damaged, wrecked or salvaged or words of similar import. "Salvage title" does not refer to an Oregon salvage title certificate as defined by ORS 801.454 and this rule, unless the Oregon salvage title certificate reflects a brand that indicates the vehicle was damaged in another jurisdiction, before being titled in Oregon.

(14) "Substantially Alter the Form" is defined in OAR 735-024-0050.

(15) "Totaled vehicle" and "totaled" as defined in ORS 801.527 and these rules means:

(a) A vehicle that is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to;

(b) A vehicle that is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer; or

(c) A vehicle that has sustained damage that is not covered by an insurer and that is such that the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle prior to the damage. For purposes of this subsection, "retail market value" is determined utilizing publications used by financial institutions doing business in Oregon.

(16) "Wreck" is defined in OAR 735-024-0050.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016 & 821.060
Stats. Implemented: ORS 803.015 & 803.420
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 18-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-024-0050
Definition and Application of Terms — To Wreck, Dismantle, Disassemble or Substantially Alter the Form of a Vehicle

(1) As used in ORS Chapter 803, 819, and 822 and OAR 735-024-0030 through 735-024-0170, the terms "wreck,""dismantle,"or "disassemble,"or other forms of these same terms, mean any action or occurrence to a vehicle that results in:

(a) Total destruction of the vehicle such as where the vehicle is taken apart with the intention of never again being operated as a vehicle, whether or not the frame or unibody will be used to repair, rebuild or construct another vehicle;

(b) The vehicle being crushed, compacted or shredded;

(c) The removal of the engine, drive train, or transmission from a motor vehicle for purposes other than repair, replacement or restoration, or regardless of the purpose, where the frame or unibody is sold or transferred separate from such parts;

(d) The permanent removal of the wheels and the frame or undercarriage of a trailer (other than a mobile home);

(e) The vehicle no longer meeting the definition of a vehicle under ORS 801.590, except as provided in section (2) of this rule;

(f) The destruction of the frame or unibody of the vehicle; or

(g) The clipping of any quarter, section or half of the vehicle.

(2) Examples of situations when section (1) of this rule shall not apply include, but are not limited to:

(a) The frame or unibody is removed for the purpose of repair or restoration, as long as ownership of the vehicle is not transferred while the frame or unibody is removed, and the vehicle is reassembled in essentially the same form, using the same frame or unibody;

(b) The tires or wheels of a motor vehicle are removed, with no other action to change the unit to something other than a motor vehicle.

(3) As used in ORS Chapters 803, 819, and 822 and OAR 735-024-0030 through 735-024-0170, the phrase "substantially alter the form of a vehicle" means any action or occurrence to a vehicle that results in:

(a) The frame or unibody being cut, severed, or welded together with parts of two or more vehicles or other materials; or

(b) Changes or alterations to the body or unibody of a vehicle that cause the body to no longer resemble the original vehicle or otherwise cause the vehicle to meet the definitions of an assembled or reconstructed vehicle, or replica.

(4) Examples of "substantially altering the form of a vehicle" include but are not limited to the following:

(a) The front or back clip of a unibody vehicle is replaced;

(b) The frame or unibody is crushed, compacted, or shredded, and replaced with another;

(c) The body of the vehicle no longer resembles any particular year model or make of vehicle;

(d) The body of the vehicle resembles a different year model or make of vehicle than the one the title was issued for; or

(e) A motor truck is rebuilt using a component kit as described in ORS 801.405(2).

(5) Examples of when section (3) of this rule shall not apply include but shall not be limited to the following:

(a) The bed or box of a pickup truck is replaced;

(b) A flatbed truck is transformed into a stake truck;

(c) The changes involve the addition or accessories, or other modifications commonly known as "customizing,"as long as the frame or unibody of the vehicle is not affected, and the body still resembles the same year model and make of vehicle; or

(d) The repair or replacement of body parts, as long as the frame or unibody of the vehicle is not affected, and the body still resembles the same year model and make of vehicle.

Stat. Auth.: ORS 802.010, 803, 819, 820, 821, 822 & Ch. 820 & 873, OL 1991
Stats. Implemented: ORS 819.010
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0070
Notice of Vehicles to be Wrecked, Dismantled, Disassembled, or Substantially Altered in Form - Responsibility of Parties

(1) The types of vehicles that are subject to the provisions of ORS 819.010 (wrecked, dismantled, disassembled or substantially altered) include:

(a) Vehicles of the type that, when operated over the highways of this state, are required to be registered and titled;

(b) Class I or III all-terrain vehicles;

(c) Snowmobiles; and

(d) Any other vehicle that has been issued a title by DMV or by another jurisdiction.

(2) This rule does not apply to a person who holds a current valid dismantler certificate issued under ORS 822.110.

(3) ORS 819.010 and any related rules apply if the activity described in 819.010 and OAR 735-024-0050 is performed in this state, and the vehicle is of a type covered in section (1) of this rule. This applies to vehicles titled in Oregon, those titled in another jurisdiction, and any vehicle not subject to title requirements.

(4) Primary ownership documents for vehicles described in section (1) of this rule may be surrendered to DMV, in place of the certificate of title where a title does not exist, or where ownership is being transferred by operation of law and the title is not available.

(5) The Oregon title certificate, foreign title certificate, or primary ownership document must be surrendered to DMV together with the application for salvage title, if a salvage title is required.

(6) The Oregon title and, unless lost or completely destroyed, the vehicle's registration card and registration plates must be surrendered to DMV along with a written statement that indicates the vehicle was dismantled, disassembled, wrecked or substantially altered, if a salvage title is not required. The statement must be submitted on a DMV Form 735-6017, "Notice of Vehicle to be Dismantled/Proof of Compliance."

(7) Vehicles that are subject to this rule may not be repaired, rebuilt, transferred, or the vehicle's frame or unibody used for repairing or constructing another vehicle, until a salvage title is applied for and issued, consistent with ORS 819.016 and 819.018.

(8) If a salvage title is not required, DMV may issue proof of compliance upon request, if:

(a) The title or primary ownership document is surrendered to DMV;

(b) DMV is provided with documentation that indicates the vehicle has been wrecked, dismantled, disassembled or substantially altered; and

(c) DMV is satisfied that a salvage title is not required.

(9) The act of wrecking, dismantling, disassembling or substantially altering a vehicle does not by itself cause a vehicle to be considered a totaled vehicle. Such a vehicle:

(a) Is subject to the requirements under ORS 819.010 and DMV rules; and

(b) Is not considered totaled, and is not subject to requirements that apply to totaled vehicles unless the vehicle was determined to be totaled before the vehicle was wrecked, dismantled, disassembled or substantially altered.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.140, 819.010, 819.012, 819.014, 819.016 & 819.018
Stats. Implemented: ORS 819.010, 819.012, 819.014, 819.016, 819.018, 819.030 & 819.040
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08

735-024-0075
Notification of Disposal of Abandoned Vehicle Appraised at $500 or Less

(1) This rule designates the form of notice that must be submitted to DMV for the disposal of an abandoned vehicle appraised at a value of $500 or less under the provisions of ORS 819.215.

(2) For purposes of this rule the following definitions apply:

(a) "An authority" means a law enforcement or government agency, as described in ORS 819.140, authorized to take a vehicle into custody;

(b) "Dismantler" means a person who is the holder of a valid dismantler certificate issued under ORS 822.110; and

(c) "Tower" means the towing business that tows a vehicle at the request of an authority.

(3) A completed and signed Abandoned Vehicle Certificate (DMV Form 271) must be submitted to DMV when an authority or tower disposes of an abandoned vehicle under ORS 819.215(1).

(4) DMV will not accept an Abandoned Vehicle Certificate if the certificate:

(a) Does not contain the appraised value of the vehicle, the name of the dismantler to whom the vehicle will be disposed, and the certification, including the name, address and authorized signature of the authority or tower disposing of the vehicle;

(b) Does not include information sufficient for DMV to identify the vehicle such as the make, plate number, registration state, or vehicle identification number;

(c) Shows an appraised value of more than $500; or

(d) Has a form revision date before December 1998.

[ED. NOTE: Form referenced is available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.215
Stat. Implemented: ORS 819.215
Hist.: DMV 12-2005, f. 5-19-05, cert. ef. 6-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 22-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DMV 11-2010, f. & cert. ef. 6-16-10

735-024-0077
Notification of Request to Dispose of a Vehicle Appraised at $500 or Less Abandoned on Private Property

(1) This rule designates the form of notice that must be submitted to DMV by an authority requested by a person to dispose of an abandoned vehicle appraised at a value of $500 or less and

abandoned on private property under the provisions of ORS 819.280.

(2) For purposes of this rule the following definitions apply:

(a) "An authority" means a law enforcement or government agency authorized to dispose of an abandoned vehicle as described in ORS 819.140(1)(b) or (c).

(b) "Appraiser" means a person who is the holder of a valid vehicle appraiser certificate issued under ORS 819.230.

(c) "Dismantler" means a person who is the holder of a valid dismantler certificate issued under ORS 822.110.

(3) A completed and signed Abandoned Vehicle Certificate - Vehicle Abandoned on Private Property (DMV Form 272) must be submitted to DMV by an authority when the authority chooses to dispose of an abandoned vehicle as described under section (1) of this rule.

(4) An Abandoned Vehicle Certificate — Vehicle Abandoned on Private Property form must include:

(a) The name and address of the authority disposing of the vehicle;

(b) The name and address of the person requesting the disposal;

(c) The vehicle identification number;

(d) The registration plate number, if the registration plates are on the vehicle;

(e) The appraised value of the vehicle; and

(f) The appraiser's certificate number and signature.

(5) DMV will not accept an Abandoned Vehicle Certificate — Vehicle Abandoned on Private Property if the form:

(a) Does not contain all of the information listed in section (4) of this rule;

(b) Shows an appraised value of more than $500; or

(c) Shows a form revision date before January 2006.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 819.215 & 819.280
Stat. Implemented: ORS 819.215 & 819.280
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-024-0100
Totaled Vehicles — Notice and Surrender of Title by Registered Owner

(1) Except for sections (6) and (7) of this rule, this rule covers those situations where a vehicle meets the definition of a totaled vehicle, and the loss is not covered by an insurer. Sections (6) and (7) of this rule cover the owner's responsibility when the loss is covered by an insurer.

(2) For vehicles that are considered totaled due to theft, the registered owner shall notify DMV within 60 days of the theft. The notice shall:

(a) Be from the owner as shown on the title for the vehicle;

(b) Be in writing;

(c) Include a description of the vehicle sufficient for the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to locate any record, including such things as the vehicle identification number (VIN) or registration plate number; and

(d) Be supported by evidence that the vehicle was reported as stolen to a law enforcement agency, such as:

(A) A copy of the police report;

(B) A police report number and the name of the agency the theft was reported to; or

(C) Other verification of the report.

(3) If the title is not in the name of the owner from whom the vehicle was stolen, the owner must qualify and apply for title in his or her name before a notice required under section (2) of this rule shall be accepted. DMV may accept the notice required in section (2) of this rule at the same time, the person applies for title.

(4) For vehicles that are considered totaled due to damage, the registered owner shall surrender the title or primary ownership document to DMV within 30 days of when the vehicle became totaled. In surrendering the title the registered owner shall do one of the following:

(a) Apply for salvage title as required under OAR 735-024-0130 and as provided under OAR 735-024-0140;

(b) Apply for issuance of title showing the vehicle as "assembled" or "reconstructed" or "replica" and showing the "totaled" brand, if the vehicle is repaired, rebuilt, or otherwise eligible for a certificate title;

(c) Surrender the current certificate of title or primary ownership document to DMV, along with a statement indicating that the vehicle is totaled and why the vehicle is exempt from having to obtain a salvage title under ORS 819.016 and OAR 735-024-0130.

(5) If the registered owner is unable to surrender the title or primary ownership document, they shall notify DMV that the vehicle is totaled, and state the reason why they are unable to surrender the title or primary ownership document.

(6) As required by ORS 819.012, if a vehicle is determined to be totaled due to the vehicle being declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to, the owner shall within 30 days of the date the vehicle became a totaled vehicle, surrender the title or primary ownership document to:

(a) DMV; or

(b) To the insurer.

(7) If the owner surrenders the title or primary ownership document to DMV under section (6) of this rule, the owner shall apply for salvage title as provided under OAR 735-024-0140, except as provided under OAR 735-024-0130. If salvage title is not required, in surrendering the title or primary ownership document to DMV, the owner shall include information indicating that:

(a) The vehicle was totaled;

(b) The name and address of the insurer; and

(c) The reason a salvage title is not required.

Stat. Auth.: ORS 802.010, 803, 819, 820, 821, 822 & Ch. 820 & 873, OL 1991
Stats. Implemented: ORS 819.010 - 819.040
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0110
Totaled Vehicles — Insurer's Notification to DMV

(1) This rule applies to vehicles that meet the definition of "totaled vehicle" or "totaled" under ORS 801.527(1) because the vehicle was declared a total loss by an insurer that is obligated to cover the loss, or because the insurer took possession of, or title to the vehicle.

(2) The insurer must notify the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) as required by ORS 819.014 and 819.016. An insurer who obtains and surrenders a title on a totaled vehicle must notify DMV by making application for salvage title under OAR 735-024-0140. This section does not apply to an insurer who does not intend to rebuild or repair the vehicle, transfer the vehicle or use the vehicle frame or unibody to repair or construct another vehicle.

(3) If the insurer does not obtain the title, the insurer must notify DMV in writing and provide at least the following information:

(a) The year model, make and vehicle identification number of the vehicle;

(b) The vehicle registration plate number and state of registration, if known;

(c) The name, address and phone number of the insurer submitting the notice; and

(d) The insurer's claim number and the date the vehicle was declared a total loss by the insurer.

(4) DMV may accept a copy of the insurer's notice to the registered owner as notice to DMV if the notice contains the information required in section (3) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.140, 819.014 & 819.016
Stats. Implemented: ORS 819.014, 819.016
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 12-2005, f. 5-19-05, cert. ef. 6-1-05

735-024-0120
Totaled Vehicles — Persons Who Receive or Purchase

(1) Except as otherwise provided by law, a person who receives or purchases a totaled vehicle is required under ORS 819.012 to surrender the title for the vehicle within 30 days of the purchase or receipt of the vehicle. As used in that statute and this rule:

(a) A primary ownership document may be surrendered when a title does not exist or in the case of a transfer by operation of law, is not available;

(b) The requirement that the title or primary ownership document be surrendered does not apply when:

(A) The title or primary ownership document has already been surrendered to the DMV with information indicating the vehicle was totaled; or

(B) A salvage title has already been issued for the vehicle. This section does not exempt persons from applying for salvage title in their name, if required to do so under OAR 735-024-0170.

(2) Persons who receive or purchase a totaled vehicle, and except as provided in section (1) of this rule, must within 30 days of receipt or purchase, surrender the title or primary ownership document to DMV, and do one of the following:

(a) Apply for salvage title as required under OAR 735-024-0130 and as provided under 735-024-0140;

(b) Apply for a certificate of title identifying the vehicle as totaled and assembled or reconstructed or vehicle replica;

(c) If a salvage title is not required, and the vehicle is not eligible for or a certificate of title is not being applied for, surrender the certificate of title or primary ownership document, together with assignments of interest or other evidence that the person(s) shown on the current title no longer hold an interest, and a written statement that indicates:

(A) The name and address of the person submitting the title;

(B) That the vehicle was totaled; and

(C) Why the vehicle is exempt from having to be issued a salvage title.

(3) Subsection (2)(c) of this rule only applies to situations where a salvage title is not required because the person does not intend to:

(a) Rebuild or repair the vehicle; or

(b) Use the frame or unibody in repairing or constructing another vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 819.014
Stats. Implemented: ORS 819.010 - 819.040
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-024-0130
Salvage Title — Vehicles Subject and When/Who Required to Apply

(1) An Oregon salvage title is an ownership document that is used to assign interest and to make an odometer disclosure on a vehicle, from the time that the certificate of title is required to be surrendered to DMV until:

(a) The vehicle is repaired, rebuilt or is issued a certificate of title; or

(b) It is determined that:

(A) The vehicle will not be rebuilt or repaired; and

(B) The frame or unibody of the vehicle will not be used to repair or construct another vehicle.

(2) Vehicle types subject to the issuance of salvage titles, include any vehicle:

(a) Of the type required to be titled or registered in this state, if operated over the highways;

(b) Snowmobiles required to be titled and registered by DMV; and

(c) Any other vehicle that has been issued a certificate of title by DMV, or some other jurisdiction.

(3) Unless exempt under ORS 819.016(3), an application for a salvage title is required on a subject vehicle that is:

(a) Wrecked, dismantled, disassembled, or where the form of the vehicle is substantially altered, as covered in ORS 819.010 and OAR 735-024-0050; or

(b) Determined to be a totaled vehicle, and the title is required to be surrendered to DMV under ORS 819.012 or 819.014; or

(c) An abandoned vehicle that is acquired under the provisions of ORS 819.215.

(4) When a salvage title is required, application must be made:

(a) For a vehicle that is declared a total loss by an insurer that is obligated to cover the loss, or that the insurer takes possession of or title to:

(A) The insurer must apply for the salvage title if the insurer obtains the title as provided under ORS 819.014, unless a salvage title has already been issued; or

(B) The owner must apply for the salvage title if the vehicle owner does not surrender the title to the insurer.

(b) By the owner for a vehicle that is totaled due to damage when the loss is not covered by an insurer; or

(c) By any person who acquires an abandoned vehicle under ORS 819.215; or

(d) By any person who receives or purchases a vehicle subject to salvage title requirements unless:

(A) A salvage title or similar document has already been issued by Oregon or some other jurisdiction, and the person is not required to apply for salvage title in his or her name under OAR 735-024-0170; or

(B) A totaled vehicle that was purchased before January 1, 1992, and is not subject until the vehicle, frame or unibody is transferred, or the vehicle is wrecked, dismantled, disassembled, or substantially altered in form.

(5) The term "receive" as used in section (4) of this rule and ORS 819.012, does not apply to auctions or other parties who as an agent of another, take possession or control of a vehicle, but who do not actually acquire an interest in the vehicle or vehicle salvage. This section does not:

(a) Relieve insurers or persons who are actually transferring interest in the vehicle or vehicle salvage from the responsibility to apply for and provide any purchaser with a salvage title, as required under ORS 819.012 through 819.018 and this rule; or

(b) Prevent parties from entering into agreements to allow agents to apply for and provide salvage titles to any purchaser on behalf of another.

(6) An odometer disclosure is required when application is made for the issuance or transfer of a salvage title for motor vehicles, except those exempt from disclosure requirements under OAR 735-028-0010.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.140, 819.012, 819.014, 819.016 & 819.018
Stats. Implemented: ORS 803.140, 819.010, 819.012, 819.014, 819.016, 819.018, 819.030, 819.040 & 49 CFR Part 580
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 22-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DMV 11-2010, f. & cert. ef. 6-16-10

735-024-0140
Salvage Title — Application for Original Salvage Title

All of the following apply to the process of obtaining a salvage title from the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV):

(1) The application shall be in writing, on a form provided by DMV, or other form acceptable to DMV.

(2) Information required on the application shall include but shall not be limited to:

(a) Information sufficient for DMV to identify the vehicle and to locate any current record DMV may have such as the vehicle make, year model, vehicle identification number and the Oregon registration plate number;

(b) The name and address of the vehicle owner;

(c) Information that indicates the vehicle is subject to salvage title requirements; and

(d) The signature of the owner.

(3) In addition, the information required in section (2) of this rule, the owner may provide a claim or policy number to be shown on the salvage title that shall:

(a) Be limited to alphabetic or numeric characters (or both); and

(b) Not exceed 16 characters.

(4) Information or documents required to be submitted in support of the application shall include, but shall not be limited to:

(a) The certificate of title or primary ownership document for the vehicle, unless previously surrendered to DMV;

(b) An assignment or release of interest from prior owners, lessors or security interest holders, or other evidence that their interest no longer exists:

(A) DMV may accept a certification from the insurer in lieu of individual releases when the original certificate of title is surrendered, and the application for salvage title is from an insurer who declared the vehicle to be a total loss or where the insurer otherwise took possession or title to the vehicle;

(B) DMV may require additional evidence, affidavits or certifications if questions of ownership exist.

(c) If the vehicle is a motor vehicle subject to odometer disclosure requirements, and the applicant for salvage title is someone other than the current owner of record, an odometer disclosure.

(5) The application shall be accompanied by the fee for a salvage title as provided in ORS 803.090.

Stat. Auth.: ORS 802.010, 803, 819, 820, 821, 822 & Ch. 820 & 873, OL 1991
Stats. Implemented: ORS 803.140
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0150
Salvage Title — Application for Replacement Salvage Title

All of the following apply to the process of obtaining a replacement salvage title from the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV):

(1) A replacement salvage title shall only be issued, if the previous salvage title has been lost, mutilated or destroyed:

(a) "Lost" means that the whereabouts of the salvage title is unknown, and that to the knowledge of the owner, or person required to attest to the disposition of the salvage title, the salvage title is not in the possession of another party;

(b) "Mutilated" means the salvage title itself is damaged (e.g., torn in half), or the vehicle description, title brand information, or ownership information printed on the title when issued, has been altered in a manner that could cause someone to believe the title was issued differently than it was. "Mutilated" does not include alterations or mutilations made in the assignment of title;

(c) "Destroyed" means the salvage title no longer exists. "Destroyed" does not include surrender of the title to DMV or another jurisdiction.

(2) Except as otherwise provided in this section, the application shall be made by the person to whom the salvage title was originally issued, and the replacement salvage title shall be issued in the same name as the previous salvage title:

(a) If the owner of record has no knowledge of the disposition of the original salvage title, the person who has knowledge (e.g., current owner) may complete that portion of the replacement salvage title application that attests to the disposition of the original salvage title;

(b) The salvage title may be issued to someone other than the person to whom the previous salvage title was issued, when:

(A) The owner of record is deceased, or his or her interest is otherwise transferred by operation of law; or

(B) The whereabouts of the owner are unknown, or they are otherwise unavailable to apply. "Unavailable to apply" shall not apply if the owner of record is an insurer currently doing business in this state, or dealer or a wrecker currently licensed under ORS Chapter 822.

(3) The application for replacement salvage title shall be in writing on a form provided by DMV, or other form acceptable to DMV.

(4) Information required on the application shall include but shall not be limited to:

(a) Information sufficient for DMV to identify the vehicle and to locate the current record such as the vehicle make, year model, vehicle identification number and the Oregon registration plate number;

(b) The name and address of the vehicle owner;

(c) A certification as to the disposition of the previous salvage title;

(d) The signature of the owner to whom the replacement salvage title is to be issued; and

(e) If someone other than the owner of record is attesting to the disposition of the original title, their signature.

(5) In addition to the information required in section (4) of this rule, the owner may provide a claim or policy number or other reference number to be shown on the salvage title that shall:

(a) Be limited to alphabetic or numeric characters (or both); and

(b) Not exceed 16 characters.

(6) Additional information or documents that may be required to be submitted in support of the application shall include but shall not be limited to:

(a) When the replacement salvage title is to be issued in a name other than the current owner of record:

(A) If the owner of record's interest was transferred by operation of law, documents (e.g., sheriff's bills of sale, probate papers, lien foreclosure documents) evidencing that the interest of the owner of record no longer exist along with evidence that the current applicant has acquired an interest; or

(B) If the owner of record is no longer available other evidence that they no longer have an interest, along with evidence that the current applicant has acquired an interest.

(b) An odometer disclosure, if the vehicle is a motor vehicle subject to odometer disclosure requirements, and the applicant for salvage title is someone other than the current owner of record.

(7) The application shall be accompanied by the fee for replacement salvage title, and if ownership is being transferred as provided in paragraph (2)(b)(B) of this rule, the fee for transfer of the salvage title as provided in ORS 803.090.

Stat. Auth.: ORS 802.010, 803, 819, 820, 821, 822 & Ch. 820 & 873, OL 1991
Stats. Implemented: ORS 803.140
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0160
Salvage Title — Form and Content

All of the following apply to salvage titles issued by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV):

(1) Salvage titles shall contain a control number and be produced by a secure process that meets or exceeds the requirements of federal law.

(2) Information contained on a salvage title shall include but shall not be limited to:

(a) The make, year model, vehicle identification number, and body style of the vehicle;

(b) The name and address of the owner to whom the salvage title was issued;

(c) If provided by the applicant, a claim or policy number, date of loss or other file number. The characters shall be alphabetical or numeric or both, and shall not exceed 16 characters in total;

(d) A printed seal of the State of Oregon;

(e) If applicable, odometer disclosure information provided to DMV at the time the salvage title was issued;

(f) If applicable, information that the vehicle was totaled, and any title brands that were on DMV records prior to issuance of the salvage title.

(3) Salvage titles shall provide space for persons to assign interest and disclose odometer information.

Stat. Auth.: ORS 802.010, 803, 819, 820, 821, 822 & Ch. 820 & 873, OL 1991
Stats. Implemented: ORS 803.140
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0170
Salvage Title — Assignment, Transfer, Requirements for Surrender

(1) The owner of a vehicle issued a salvage title, must keep the title until:

(a) The frame or unibody are no longer subject to salvage requirements described in OAR 735-024-0130; or

(b) The vehicle is transferred to a new owner.

(2) If the vehicle is wrecked, dismantled, disassembled, or substantially altered in form, and the parts are transferred separately:

(a) The salvage title must remain with the frame or unibody, if it is still subject to salvage title requirements or is sold to someone in another jurisdiction;

(b) The salvage title must be surrendered to DMV if the frame or unibody is no longer subject to salvage title requirements and has not been sold to someone in another jurisdiction. In this case, the salvage title must be surrendered to DMV within 30 days of when the vehicle, including the frame or unibody, is no longer subject to salvage title requirements.

(3) The provisions of this rule relating to forms used for assigning interest and making odometer disclosures only apply to a vehicle or frame or unibody remaining in this state. Other states may require assignments and disclosures to be made on the salvage title or on secure assignment forms that may be submitted with the salvage title.

(4) A dealer, dismantler, or insurer is not required to apply for salvage title in their name if ownership of a vehicle or frame or unibody has been issued or is transferred to a dealer or dismantler who holds a certificate issued under ORS 822.020 or 822.110, or to an insurer. This section does not prohibit a dealer, dismantler or insurer from applying for a salvage title in their name:

(a) Except as provided in subsection (4)(b) of this rule, any assignment of interest to the insurer, dealer or dismantler must be made on:

(A) The current salvage title; or

(B) If all of the assignment spaces on the salvage title are filled up, a separate assignment must accompany and remain with the salvage title. If ownership of the vehicle is transferred at a later time, any assignment(s) not recorded on the title must be provided with the salvage title to the transferee at time of transfer.

(b) The assignment may be made on the replacement title application or on documents supporting the application for replacement title, if the salvage title is lost, mutilated or destroyed, and where allowed under OAR 735-024-0150, the replacement salvage title is to be issued in a name other than the current owner of record.

(5) If ownership of a vehicle or frame or unibody for which a salvage title has been issued is transferred to anyone other than a dealer or dismantler who holds a certificate issued under ORS 822.020 or 822.110, or an insurer, that person is required to apply for salvage title in his or her name. In this case:

(a) Assignments of interest may be made as provided in section (4) of this rule;

(b) Odometer disclosures may be made on the application for salvage title or as otherwise provided in OAR 735-028-0000; and

(c) The person must apply for salvage title as described in OAR 735-024-0140, or if the salvage title is lost, destroyed or mutilated, as provided in OAR 735-024-0150.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.140, 819.016
Stats. Implemented: ORS 803.140
Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

DIVISION 26

DUPLICATE/REPLACEMENT TITLES

735-026-0000
Requirements for Obtaining Replacement Title

All of the following apply to the process of obtaining a replacement title from the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) under ORS 803.065:

(1) A replacement title issued by DMV shall reflect all ownership interests recorded on the original certificate of title. No changes of ownership, names of interest holders or vehicle description shall be reflected on the replacement title, except:

(a) To correct information incorrectly recorded on the title; or

(b) To reflect changes to the vehicle since the title was issued, including the addition of brands such as "totaled," "assembled," "previous damage" or other brands required by statute or rule.

(2) A replacement title with transfer of interest may be issued as provided in OAR 735-026-0010.

(3) No replacement title shall be issued if the certificate of title is required to be surrendered under ORS Chapter 819. This section does not preclude:

(a) An application for replacement title submitted in support of an application for salvage title; or

(b) An application for replacement title submitted to comply with salvage procedures under ORS Chapter 819.

(4) A replacement title may be issued only if the certificate of title is lost, destroyed or mutilated.

(5) "Lost" means the whereabouts of the certificate of title is unknown and that, to the best of the owner's or person's knowledge who is required to attest to the disposition of the certificate of title, the title is not in the possession of another party.

(6) A stolen certificate of title shall be considered "lost" only if the certificate is physically taken by a party with no possible ownership interest in the vehicle:

(a) Situations where the certificate may be considered lost include, but shall not be limited to, the certificate of title being taken in a burglary, robbery or theft;

(b) Situations where the certificate shall not be considered lost include, but shall not be limited to, the certificate being taken due to a domestic dispute, or the certificate being given to a purchaser who later reneged on payment, including paying with a check which the bank would not cash.

(7) "Destroyed" means the certificate of title no longer exists. "Destroyed" does not include surrender of the title to DMV or other jurisdiction.

(8) "Mutilated" means the certificate of title is damaged (e.g., torn in half), or the vehicle description, title brand information or ownership information printed on the title when issued has been altered in a manner that could cause someone to believe the title was issued differently than it was. "Mutilated" does not include alterations or errors made in the assignment of title. This section does not preclude issuance of a replacement title if an interest holder released on the title in error and no assignment of interest was completed and no interests were transferred.

(9) Only the person or persons to whom DMV was required to deliver the certificate of title may apply for a replacement title. DMV shall accept an application for replacement title only if it is signed by:

(a) The primary security interest holder, if one was recorded on the certificate of title;

(b) All joint security interest holders, if joint security interest holders are recorded on the certificate of title;

(c) Every lessor, if there is a lessor, and there is no security interest holder; or

(d) Every registered owner, if there is no security interest holder or lessor.

(10) The application for replacement title shall be in writing on a form(s) furnished by DMV or other form(s) acceptable to DMV.

(11) Information required on the application shall include, but shall not be limited to:

(a) Information sufficient for DMV to identify the vehicle and to locate the current record, such as the vehicle make, year model, vehicle identification number and registration plate number;

(b) The names and addresses of all interest holders in the vehicle. If ownership of the vehicle has been transferred and the owner of record agrees, DMV may deliver the title to the transferee. In

such cases, the name and address of the transferee shall be shown on the application as the owner's mailing address;

(c) A certification as to the disposition of the certificate of title (e.g., whether it was lost, destroyed or mutilated). If the person entitled to apply has no knowledge of the disposition of the title, the person with such knowledge shall make the certification;

(d) The signature of the person(s) entitled to apply. If the applicant is a financial institution, "signature" shall include the name of the institution, the signature of an authorized representative and evidence to satisfy DMV that the applicant is the financial institution named on the certificate of title. Such evidence may include, but shall not be limited to, a unique line stamp, official letterhead or other similar device. DMV may, but shall not be required to, independently verify that the financial institution named on the certificate of title is the applicant for replacement title.

(12) DMV may require additional evidence of ownership, disposition of the certificate of title or the identity of the applicant if:

(a) DMV has any reason to believe there may be a dispute of ownership of the vehicle;

(b) DMV has any reason to believe the certificate of title may not be lost, destroyed or mutilated; or

(c) DMV has any reason to believe the applicant may not be the person entitled to apply for a replacement title.

(13) The application shall be accompanied by the fee for a replacement title established under ORS 803.090.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 821.060, 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.065

Hist.: MV 1-1978, f. 5-1-78, ef. 9-1-78; Administrative Renumbering 3-1988, Renumbered from 735-071-0002; MV 7-1992, f. 6-18-92, cert. ef. 6-22-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-026-0010
Requirements for Obtaining Replacement Title with Transfer

All of the following apply to the process of transferring any interest when obtaining a replacement title as provided in ORS 803.065(2):

(1) Except as otherwise provided in this rule, all of the provisions of OAR 735-026-0000 apply to the process of transferring any interest when obtaining a replacement title.

(2) No replacement title with transfer shall be issued except as otherwise provided in this rule. An application for replacement title with transfer provided for in this rule need not include an odometer disclosure.

(3) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may accept an application for replacement title with transfer of interest:

(a) For any vehicle exempt from odometer disclosure requirements by ORS 803.102 or by administrative rule;

(b) When the transfer is by operation of law;

(c) When the transfer is due solely to the creation, release or assignment of a security interest;

(d) When the transfer involves only the removal or addition of co-owners where at least one owner remains the same; or

(e) When the transfer of interest occurred before June 22, 1992. An Oregon dealer who receives an application for replacement title where the transfer occurred before June 22, 1992 shall:

(A) Apply for a replacement title on behalf of the owner;

(B) Apply for a replacement title and transfer of title into the name of the dealer's retail customer when the vehicle is sold; or

(C) Obtain title in the name of the dealer if the vehicle is sold to another dealer on or after June 22, 1992.

(f) When a lessor recorded on the Oregon title is listed as the registered owner on the application for transfer.

(4) The application for replacement title and transfer shall be in writing on a form or forms provided by DMV or other form acceptable to DMV.

(5) An application for replacement title submitted with an application for transfer as provided in this rule shall be signed by the person or persons required to sign by OAR 735-026-0000(9), except:

(a) If the interest of a security interest holder or lessor required to sign has been satisfied, the application for replacement title shall be signed by the interest holder with the next highest priority;

(b) If the interest of all security interest holders and lessors required to sign have been satisfied, the application shall be signed by all registered owners;

(c) If any or all registered owners have released interest DMV may accept a separate release of interest from the owner in lieu of the owner's signature on the application if DMV receives evidence that the owner of record is no longer available to sign the application. In such cases DMV may require the transferee to provide evidence of attempts to contact the owner.

(6) Information required on the application for transfer shall include, but shall not be limited to:

(a) Information sufficient for DMV to identify the vehicle and to locate the current record, such as the vehicle make, year model, vehicle identification number and registration plate number;

(b) The names and addresses of all owners and lessors of the vehicle and all security interest holders in order of priority; and

(c) The signature of at least one of the owners of the vehicle, except:

(A) If the transfer is due solely to the assignment of a security interest, only the security interest holder to whom interest is assigned must sign the application for transfer;

(B) If there are both a security interest holder and a lessor, all lessors and at least one owner must sign the application.

(7) The application shall be accompanied by a release of interest from every person shown to have an interest in the vehicle on the certificate of title who no longer has an interest in the vehicle. A release may also be required from any other person DMV has reason to believe has an interest in the vehicle, whose name is not shown on the application for transfer.

(8) A release of interest may be any evidence satisfactory to DMV that the person no longer has an interest in the vehicle. Acceptable releases of interest include, but shall not be limited to:

(a) Assignment of interest on odometer disclosure and assignment forms;

(b) Bills of sale;

(c) Statements of lien satisfaction;

(d) Statements of lease termination; or

(e) Releasing signatures on the application for transfer.

(9) DMV may require a statement of fact or affidavit to establish ownership from any person it has reason to believe may have an interest in the vehicle, for the purpose of determining if the person has an interest in the vehicle.

(10) In addition to the fee for a replacement title, the application for a replacement title with transfer shall be accompanied by the fee for transfer established under ORS 803.090.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 821.060, 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.065

Hist.: MV 7-1992, f. 6-18-92, cert. ef. 6-22-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

DIVISION 28

ODOMETERS

735-028-0000
Definitions Relating to Odometer Disclosures and Voluntary Odometer Readings

As used in OAR 735-028-0000 through 735-028-0100 the following terms apply:

(1) "Actual Mileage" means the distance a vehicle has traveled while in operation.

(2) "Buyer" refers to the transferee as defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.

(3) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(4) "Seller" has the same meaning as "transferor" as that term is defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.

(5) "Odometer" means a device on a motor vehicle for recording the accumulated total mileage a vehicle has been driven. It does not include a device designed to be reset to zero by the operator for purposes of recording trip mileage.

(6) "Odometer Reading" means the mileage indicated on the odometer, excluding any tenths of a mile or kilometer.

(7) "Odometer Disclosure" is a written statement required by state or federal law upon a transfer of an interest in motor vehicle, which contains:

(a) A vehicle description, the odometer reading and a certification as to whether, to the best of the person's knowledge, the reading reflects the actual mileage, mileage in excess of the designed mechanical limit or does not reflect actual mileage; and

(b) Depending on the type of transaction, any other information required by rule to be on the disclosure.

(8) "Conforming Title" means a certificate of title or salvage title issued by any state, which contains spaces for odometer information required by 49 CFR, Part 580. Any Oregon title or salvage title issued on or after January 1, 1992, is a conforming title.

(9) "Nonconforming Title" means a certificate of title issued by any state that does not contain spaces for odometer information required under 49 CFR, Part 580. Any Oregon title issued prior to January 1, 1992, is a nonconforming title.

(10) "Secure Form" refers to an odometer disclosure and reassignment form or a power of attorney form that includes odometer information, issued by DMV or another jurisdiction that meets or exceeds federal requirements on form and content. The forms incorporate security features to deter and detect counterfeiting or unauthorized reproduction, and make alterations visible to the naked eye.

(11) "Voluntary odometer reading" is an odometer reading provided to DMV on a voluntary basis in connection with a title transaction for a vehicle that is 10 years old or older as provided for under Section 1, Chapter 659, Oregon Laws 2013.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & 2013 OL Ch. 659

Stats. Implemented: ORS 803.120 - 803.126, Ch. 659, OL 2013 & 49 CFR Part 580

Hist.: MV 23-1985, f. 12-31-85, ef. 1-1-86; MV 29-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0400; MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14; DMV 5-2014, f. & cert. ef. 6-24-14; DMV 6-2014, f. & cert. ef. 7-9-14

735-028-0005
Voluntary Odometer Reading for a Vehicle that is 10 Years Old or Older

The purpose of this rule is to prescribe the manner in which a person may provide a voluntary odometer reading to DMV for a vehicle that is 10 years old or older as required by section 1, chapter 659, Oregon Laws 2013.

(1) A voluntary odometer reading as defined under OAR 735-028-0000(11):

(a) Must be provided on a document submitted to DMV in connection with a title transaction. For example, an application for title, a vehicle title, salvage title or a document approved by DMV for providing an odometer disclosure;

(b) Must include the date of the reading or the date the reading was received by DMV;

(c) Must include the following to be recorded on the vehicle record and title or salvage title:

(A) A reading greater than zero; or

(B) A reading of zero or greater, if provided with an odometer message as described in subsection (d) of this Section.

(d) May include an odometer message that states to the best of the knowledge of the person providing the reading that:

(A) The mileage stated is in excess of the odometer's mechanical limits;

(B) The reading does not reflect the actual mileage; or

(C) The odometer is not readable.

(e) Does not constitute an endorsement by DMV as to the accuracy, completeness, reliability or usefulness of the odometer reading, odometer message or the date of the reading.

(2) DMV will not attempt to verify the mileage reported for a voluntary odometer reading.

(3) A person who provides a voluntary odometer reading to DMV is not subject to the certification requirements for an odometer disclosure required under ORS 803.102, 49 CFR, Part 580 or DMV rules.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.102, 803.120 & 2013 OL Ch. 659

Stats. Implemented: ORS 803.102, 803.120 & 2013 OL Ch. 659

Hist.: DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14; DMV 5-2014, f. & cert. ef. 6-24-14; DMV 6-2014, f. & cert. ef. 7-9-14

735-028-0010
Vehicles Exempt from Odometer Disclosure Requirements

(1) In addition to the exemptions described under ORS 803.102, the following vehicles are exempt from odometer disclosure requirements:

(a) A new vehicle that is transferred before it is sold to a retail customer. For example, the transfer of a new vehicle between vehicle dealers.

(b) Snowmobiles.

(c) Class I all-terrain vehicles.

(d) A vehicle that has been reported stolen and has not been recovered.

(e) A vehicle originally manufactured without an odometer.

(f) A vehicle covered by a salvage title, if:

(A) The odometer has been destroyed, removed or is unreadable; or

(B) The frame or unibody is transferred separately from the odometer.

(g) A vehicle that has been wrecked, dismantled, disassembled or substantially altered and:

(A) The provisions of ORS 819.010 have been complied with and DMV has issued proof of compliance under 819.030; and

(B) The vehicle is acquired by a vehicle dismantler as defined under OAR 735-152-0000

(h) A vehicle that is ten years old or older. January 1 of the vehicle model year is used as the starting point in calculating the age of a vehicle. For purposes of this subsection, the model year is the year assigned by the manufacturer for a manufactured vehicle, or the model year listed on the vehicle title for an assembled, reconstructed or a replica vehicle. For example, a 1996 model vehicle is considered 10 years old on January 1, 2006.

(2) DMV may require an applicant to submit additional information to verify the model year of a vehicle.

Stat. Auth.: ORS 184.616, 803.045 & 803.102

Stats. Implemented: ORS 803.045 & 803.102

Hist.: MV 23-1985, f. 12-31-85, ef. 1-1-86; MV 29-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0410; MV 51-1989, f. & cert. ef. 12-1-89; MV 12-1991, f. 9-18-91, cert. ef. 9-29-91; MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; DMV 1-1997, f. & cert. ef. 1-17-97; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-028-0020
Odometer Disclosure; Initial Application for Title with No Change in Ownership

(1) Unless exempt under OAR 735-028-0010, an odometer disclosure is required when a vehicle is initially titled in Oregon and there is no transfer of ownership, including but not limited to when:

(a) The vehicle owner listed on an out of state title is applying for an Oregon title; or

(b) The vehicle owner of an assembled vehicle is applying for a title.

(2) A vehicle odometer disclosure must be on a form approved by DMV that is complete, signed, and includes all of the following:

(a) The year model, make and VIN.

(b) The mileage on the odometer at the time of the reading and the date of the reading.

(c) A certification that states: to the best of the person's knowledge the odometer reading:

(A) Is the actual mileage;

(B) Is in excess of the designed mechanical odometer limits; or

(C) Is not the actual mileage.

(d) The signature of the vehicle owner.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.120 & 803.126

Stats. Implemented: ORS 803.015, 803.045, 803.092 & 803.120, 803.126

Hist.: MV 23-1985, f. 12-31-85, ef. 1-1-86; MV 29-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0420; MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; MV 17-1993, f. & cert. ef. 12-17-93; DMV 16-2006, f. & cert. ef. 11-17-06

735-028-0030

Odometer Repair/Replacement Notice Requirements

(1) As used in this rule, odometer repair notice means the notice required under ORS 815.415 to be placed on a vehicle when:

(a) An odometer is serviced, repaired or replaced; and

(b) The work could not be performed without changing the mileage reading.

(2) The notice shall be permanently affixed to the left door frame of the vehicle and shall include all of the following:

(a) Information identifying the form as an odometer repair notice;

(b) The name and address of the individual, agency or business that performed the work;

(c) The signature of the person who performed the work;

(d) The mileage prior to the repair, replacement or service (ORS 815.415);

(e) The date the work was performed (ORS 815.415); and

(f) That removal of the notice is a Class C misdemeanor.

(3) Odometer disclosures submitted because an odometer was serviced, repaired or replaced shall be on a form provided by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) or other form acceptable to DMV, and must contain all of the following:

(a) Vehicle identification sufficient for DMV to identify the vehicle, such as the year, make and identification number;

(b) The odometer reading before the repair or replacement was done;

(c) The current odometer reading, excluding tenths of a mile or kilometer; and

(d) The name of the business and a signature of a representative of the business that serviced, repaired or replaced the odometer.

(4) As provided in ORS 815.415, disclosures required under this rule shall be submitted to DMV within ten days of the completion of the work.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 815.415 & 49 CFR Part 580

Hist.: MV 23-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-110-0430; MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

735-028-0040

Odometer Readings in Connection with an Odometer Disclosure

This rule establishes when and what DMV will record on an Oregon title or salvage title upon receipt of an odometer disclosure required by federal or state law.

(1) DMV will record on the title or salvage title the odometer reading and date disclosed upon a transfer of interest on the title or salvage title, if the transfer is subject to odometer disclosure requirements by statute or rule.

(2) Except as provided by section (3) of this rule, the odometer reading recorded on a title or salvage title shall be the most recent version received by DMV on a disclosure accompanying the title transaction.

(3) DMV may record an odometer reading other than the reading from the most recent disclosure when:

(a) The most recent disclosure is missing required information;

(b) DMV has reason to believe the odometer reading on the most recent disclosure is not accurate; or

(c) A request for a title correction is submitted to DMV to correct an erroneous odometer reading as provided under section (7) of this rule.

(4) If the transfer of interest is not subject to odometer disclosure requirements (e.g., removing a security interest holder), DMV will record:

(a) The mileage disclosed by the owner, if the owner makes a disclosure at the time of transfer; or

(b) The mileage shown on the previous title or salvage title, if the owner does not make a disclosure or the transfer involves a replacement title.

(5) If DMV accepts an application without a disclosure from the seller, as provided under OAR 735-028-0090, DMV will record the mileage disclosed by the buyer.

(6) The odometer disclosure date recorded on the title or salvage title shall be the date the disclosure is made. If DMV is unable to determine the date the disclosure is made, the date shall be the date the application was processed in DMV's local offices, or, if received by mail, the date the application was received.

(7) DMV may correct an odometer reading recorded on a title or salvage title if a request for title correction is submitted to DMV:

(a) Within 90 days of the date the title was issued and before any subsequent transfer of interest; if the buyer or seller disclosed incorrect mileage at the time of transfer; or

(b) More than 90 days after the title was issued and before a subsequent transfer of interest requiring an odometer disclosure, if:

(A) DMV recorded the mileage or date incorrectly; or

(B) The request for title correction includes evidence satisfactory to DMV that the disclosure was made in error. Examples of evidence include a prior odometer disclosure made by the owner or a vehicle service record, or similar document that shows the date of service and odometer reading.

(8) DMV will not correct an odometer reading or date recorded on the title when questions concerning odometer disclosure arise and the title or salvage title is not subject to correction under section (4) of this rule, but may add the notation that the odometer reading is "not actual."

(9) When an odometer disclosure received by DMV indicates the odometer reading does not reflect the actual mileage, exceeds the mechanical limits of the odometer, or the odometer on a salvage titled vehicle is not readable, DMV will record one of the following odometer messages on the title or salvage title:

(a) "Exceeds mechanical limits," if the odometer disclosure indicates the odometer reading is in excess of the mechanical limits of the odometer;

(b) "Not actual," if the odometer disclosure indicates the odometer reading does not reflect the actual mileage. "Not actual" will be recorded if "not actual" and any other message both apply. "Not actual" also may be recorded on the title if the odometer reading disclosed at transfer is less than a previously disclosed odometer reading, whether or not "not actual" is indicated on any odometer disclosure received by DMV;

(c) "Not readable," if the vehicle has been destroyed, the odometer removed, or it otherwise is impossible to read the odometer of the vehicle because of damage to the vehicle or the odometer.

(10) DMV may, at its discretion, record any odometer message on a title or salvage title it believes appropriate if it has reason to believe:

(a) The odometer reading does not reflect the actual mileage; or

(b) The odometer reading reflects mileage in excess of the mechanical limits of the odometer.

(11) When a title or salvage title is submitted in support of an application for Oregon title, and the title contains a message not

described under section (9) of this rule, DMV will record on the Oregon title — if issued — an odometer message DMV determines most accurately reflects the message on the title submitted with the application or the actual mileage of the vehicle.

(12) If the message "not readable" is recorded on an Oregon title or salvage title and the odometer is later repaired or replaced and can't be reset to actual mileage, the message "not actual" will be recorded on the title.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080
Stats. Implemented: ORS 803.015, 49 CFR Part 580
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14; DMV 5-2014, f. & cert. ef. 6-24-14; DMV 6-2014, f. & cert. ef. 7-9-14

735-028-0050
Odometer Disclosure Requirements Upon Transfer of Interest — When and from Whom Required

(1) The term "transfer" means any change of interest in a vehicle, whether by purchase, gift or any other means. The term applies, unless otherwise exempt, to vehicles:

(a) That have never been titled;

(b) That are titled in another jurisdiction;

(c) That have been issued any form of title (e.g., salvage title, certificate of title);

(d) That are new;

(e) That are of original construction, or have been rebuilt, reconstructed or assembled; and

(f) Whether or not transfer is recorded with the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV).

(2) A transfer, as defined in section (1) of this rule, does not include:

(a) Changes in interest that are specifically exempt from odometer disclosure under ORS 803.102 or OAR 735-028-0010;

(b) Changes in interest if at least one of the owners is remaining the same (e.g., where a co-registered owner is being added or deleted); or

(c) A change in interest due solely to the creation, release or assignment of a security interest.

(3) Upon transfer of interest in a vehicle subject to odometer disclosure:

(a) The seller shall make a written odometer disclosure that contains all of the following:

(A) The odometer reading at the time of transfer, excluding tenths of a mile or kilometer;

(B) The date of transfer;

(C) The printed name and current address of the seller. If the seller is a business, the printed name of both the business and the printed name of the person signing for the business shall be included;

(D) The printed name and current address of the buyer. If the buyer is a business, the printed name of both the business and the printed name of the person signing for the business shall be included;

(E) The vehicle identifiers, including make, model, year, body type, and vehicle identification number;

(F) A certification whether, to the best of the seller's knowledge, the odometer reading reflects the actual mileage, is in excess of the designed mechanical odometer limit, or does not reflect the actual mileage;

(G) The signature of the seller.

(b) The buyer shall:

(A) Sign the seller's disclosure; and

(B) Return a copy to the seller.

(4) If a conforming title has been issued for the vehicle:

(a) The disclosure from the seller in whose name the title or salvage title was issued shall be made on the actual title or salvage title;

(b) Disclosures from other parties (e.g., dealer reassignments) may be made on the title or on separate secure reassignment forms.

(5) If a nonconforming title has been issued for the vehicle, or the vehicle has never been titled but is not covered by a Manufacturer's Certificate of Origin, disclosures shall be made on forms:

(a) Issued by the Oregon DMV, or the equivalent agency in another state which may include photocopies, facsimile copies, digitized copies or other reproductions of blank state forms other than secure forms;

(b) That contain all of the information required under section (3) of this rule; and

(c) That may be, but shall not be required to be, secure forms.

(6) If the vehicle is covered by a Manufacturer's Certificate of Origin and a disclosure is required, it shall be made either:

(a) On the certificate of origin, that contains spaces for all the information required under section (3) of this rule; or

(b) On a disclosure form that contains all the information required under section (3) of this rule.

(7) If the transfer involves more than one seller (e.g., co-owners selling a vehicle), only one seller shall be required to sign the odometer disclosure.

(8) All of the following apply to leased vehicles that are otherwise subject to odometer disclosures upon transfer of interest:

(a) When the lessor is the seller, the lessor shall make the disclosure required of the seller. A lessor who transfers a leased vehicle without obtaining possession of it may, when making the odometer disclosure statement required from the seller, rely upon the mileage disclosed by the lessee to the lessor, as required by federal rules;

(b) When the lessee is the seller (i.e., the lessee acquired the vehicle under lease purchase and subsequently sells the vehicle), the lessee shall make the disclosure required of the seller;

(c) The lessee may acknowledge as purchaser the disclosure made by the seller, if the lessee is to be shown as the owner on the Oregon title.

(9) In the case of a transfer of interest by operation of law:

(a) If the owner whose interest is transferred would otherwise be required to complete an odometer disclosure, the person required to make the disclosure shall be:

(A) The person who transferred that owner's interest, if that person has possession of or reasonable access to the vehicle (e.g., a sheriff or tow company); or

(B) The buyer, if the person who transferred that owner's interest did not have possession or reasonable access to the vehicle (e.g., a court or bankruptcy judge).

(b) The disclosure shall be made on:

(A) The title for the vehicle, if the title is a conforming title and is available; or

(B) On a disclosure form issued by DMV, or some other state, if the title is a nonconforming title or if the title is not available, and ownership is being transferred without the title as allowed under Oregon law.

(10) A buyer or a seller may appoint an attorney in fact for purposes of odometer disclosure. Provisions covering the use of a power of attorney for odometer disclosure are as provided in OAR 735-028-0060 through 735-028-0080.

(11) When application for title or salvage title is required to be made, or is made on a vehicle subject to odometer disclosure under this rule, the required disclosure shall be submitted to DMV with the application for title or salvage title along with any other requirements.

(12) Dealers required to provide notice of purchase of a vehicle to DMV under ORS 803.105, shall not be required to include an odometer disclosure with the notice. This section, however, does not exempt dealers from obtaining or providing odometer disclosures, or from maintaining odometer disclosure records for vehicles they acquire or sell.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.102 & 49 CFR Part 580
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0060
Restrictions on Use of a Power of Attorney for Odometer Disclosure

(1) A power of attorney may be used for making odometer disclosures required upon transfer of interest, when the party granted the power of attorney is a disinterested third party:

(a) As used in this rule and OAR 735-028-0070, "disinterested third party" means someone who is not the buyer or seller, or an employee, agent or representative of either;

(b) Provisions covering the form, content and use of a power of attorney by a disinterested third party are covered in OAR 735-028-0070.

(2) No person shall sign an odometer disclosure for both the seller and buyer in the same transaction (e.g., by power of attorney), except as provided in this section:

(a) A seller may grant the buyer power of attorney to make an odometer disclosure if:

(A) The seller's title is lost, and the buyer is applying for a replacement title on behalf of the seller; or

(B) The seller's title is being held by a lien holder.

(b) A buyer may grant power of attorney to the seller, if at the time the seller acquired the vehicle the seller was granted a power of attorney as provided in subsection (2)(a) of this rule, and has re-sold the vehicle prior to receiving the title. Any power of attorney granted under this subsection shall be made on the same form as completed by the original seller and buyer, under subsection (2)(a) of this rule.

(3) Provisions covering the form, content and use of a power of attorney between a buyer and seller are covered in OAR 735-028-0080.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.120 - 803.124 & 49 CFR Part 580
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

735-028-0070
Odometer Disclosures — Power of Attorney Granted to Disinterested Third Party

All of the following apply to the use of powers of attorney for the purpose of making an odometer disclosure, when the power of attorney is granted by the buyer or seller to a "disinterested third party,"as defined in OAR 735-028-0060:

(1) The power of attorney may be on any form as long as it:

(a) Contains a vehicle description sufficient for the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to identify the vehicle (e.g., year, make and vehicle identification number);

(b) Contains a statement as to what authority is being granted (e.g., authority to make odometer disclosure);

(c) Indicates who is granted the power of attorney; and

(d) Is signed by the person granting the power of attorney.

(2) The person who receives the authority granted by the power of attorney must exercise the power of attorney by completing an odometer disclosure in the same manner and form required under OAR 735-028-0050 of the person who granted the power of attorney.

(3) The power of attorney shall be submitted to DMV with the title or title documents with which it is used, when application for title is submitted:

(a) DMV may accept a copy of a general power of attorney that is not limited to the authority to make an odometer disclosure or transfer title on a specific vehicle. DMV also may accept a copy if the power of attorney is lost. Any copy submitted shall include a certification signed by either the person who granted the power of attorney or the person who received the authority, that the document is a true copy of the original;

(b) A separate odometer disclosure filing as provided in ORS 803.126 and OAR 735-028-0080 shall not be required for a power of attorney granted to a disinterested third party.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.120 - 803.124 & 49 CFR Part 580
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

735-028-0080
Odometer Disclosures — Power of Attorney Between the Buyer and Seller — Filings with the State

(1) A person may sign an odometer disclosure as both the buyer and seller by power of attorney only when allowed under OAR 735-028-0060.

(2) When a seller gives a power of attorney to the buyer for the purpose of making an odometer disclosure, the form used shall be the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) "Secure Power of Attorney," Form 735-402, or a secure form issued by another state that conforms to federal rules **(49 CFR, Part 580)**. All of the following apply to such forms:

(a) Photocopies, facsimiles, digitized copies or other reproductions of such forms are not acceptable for use in making odometer disclosures. This section does not prevent persons from making copies of completed forms, such as for their records;

(b) Oregon's secure power of attorney form, and the secure forms of some other states, are multicopy forms, each copy of which is a secure form. When used as intended, completion of the original power of attorney will result in the other copies being completed with the same information. Such copies shall be acceptable for submission to the state as otherwise provided in this rule.

(3) A seller who grants power of attorney under section (2) of this rule, shall complete Part A of the secure power of attorney form, including the seller's printed and written signature and all other information required to be part of an odometer disclosure, as covered in OAR 735-028-0050.

(4) A buyer who receives power of attorney under section (2) of this rule shall print and sign his or her name in Part A of the secure power of attorney form and return one copy of the form to the seller.

(5) Upon receipt of the seller's title, the person granted the power of attorney shall determine whether the mileage disclosed on the power of attorney is less than the mileage shown on the title:

(a) If the mileage disclosed on the power of attorney is greater than the mileage shown on the title, the person may use the power of attorney to make the required disclosure:

(A) If the title is a conforming title, the person shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed on the power of attorney;

(B) If the title is a non-conforming title, the power of attorney form itself may be considered the disclosure, and the person need not complete a separate state-issued disclosure form.

(b) If the mileage disclosed on the power of attorney is less than the mileage shown on the title, and there is no indication from the seller on Part A of the power of attorney that the mileage has exceeded the mechanical limits of the odometer or that the mileage is not actual, the power of attorney is void for the purpose of making an odometer disclosure. In this case, the person granted the power of attorney shall not make the disclosure on the title and shall obtain a new disclosure from the seller. This subsection shall not apply if it is determined that DMV or another state made an error in recording the mileage on the title, and that the actual mileage reported and which should have been shown on the title was less than that reported on the power of attorney.

(6) If the person who is granted power of attorney under section (2) of this rule resells the vehicle prior to receipt of the title, and if the new buyer elects to grant power of attorney to that person for the purpose of making an odometer disclosure, the exact power of attorney form that was completed under sections (2) through (4) of this rule shall be used. In granting power of attorney under this section, the new buyer:

(a) Grants authority for the seller to sign all papers and documents required to secure title on the buyer's behalf;

(b) Grants authority for the seller to make the odometer disclosure on the title, only if the disclosure is exactly as completed on the power of attorney; and

(c) Acknowledges that the buyer is aware of the odometer disclosure made under Part A of the power of attorney form the buyer is signing.

(7) When power of attorney is granted under section (6) of this rule:

(a) The seller who is granted power of attorney shall complete Part B of the secure power of attorney form, including the seller's printed and written signature and all other information required to be part of an odometer disclosure, as covered in OAR 735-028-0050;

(b) The new buyer shall print and sign his or her name in Part B of the power of attorney;

(c) The seller shall provide a copy of the completed power of attorney to the buyer;

(d) Upon receipt of the title, the person who is granted power of attorney shall comply with the provisions of section (5) of this rule; and

(e) If the title is a conforming title, and the power of attorney is not void and is being used to make a disclosure under both Parts A and B of the power of attorney form, the person granted the power of attorney shall also complete Part C of the power of attorney form. Part C of the power of attorney includes, but shall not be limited to:

(A) The signature, printed name and address of the person exercising the power of attorney;

(B) A certification that the person has disclosed the mileage on the title as it was disclosed on the power of attorney, that the person has examined the title and any reassignment documents, and that the examination indicated the mileage disclosed on the power of attorney is greater than that shown on the title and any reassignment documents;

(C) The date of the certification.

(8) A person who is granted and who exercises a power of attorney under this rule shall complete the required odometer disclosure(s) on the title when received. The person shall provide an original power of attorney or one of the secure copies of a multicopy form to:

(a) The Oregon DMV, along with the title and any other requirements, if that person is applying for title in his or her name or on behalf of the new applicant; or

(b) Whomever that person provides the title.

(9) A person who is granted and who exercises a power of attorney under this rule and who does not apply for title in his or her name or on behalf of the new applicant (e.g., title and power of attorney given to new buyer) or who applies for title in a state other than the state that issued the power of attorney form, shall in addition to complying with section (8) of this rule, make a separate odometer disclosure filing in the state that issued the power of attorney form. All of the following apply to such filings:

(a) The filing shall be made to the Oregon DMV if filed in Oregon, or to the equivalent agency if filed in another state;

(b) The laws and regulations of the state in which the documents are being filed shall apply (e.g., requirements for filing and any fee); and

(c) To comply with Federal rules and Oregon rules and statutes, filings required under subsection (9)(a) of this rule to be made to the Oregon DMV:

(A) Shall include at least a copy of the front and back of the title that has been completed to show the odometer disclosure, the original power of attorney or one of the secure copies of a multicopy power of attorney, and the $4 filing fee required by ORS 803.126;

(B) Shall be submitted to DMV within 30 days of selling the vehicle, or if the named attorney titles the vehicle in another state, within 30 days of exercising the power of attorney on the title; and

(C) Shall not be required if the title is a nonconforming title. However, DMV shall retain power of attorney documents and fees filed when the title is nonconforming.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.120 - 803.124 & 49 CFR Part 580

Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0090

Odometer Disclosure a Requirement for Issuance of Title, Exceptions

(1) DMV will not issue title to a vehicle subject to odometer requirements until an odometer disclosure that meets the requirements of this division is submitted to DMV

(2) Except as otherwise provided in this rule, if there has been more than one transfer since the last title or other primary ownership document was issued (e.g., the owner sold the vehicle to a dealer who sold it to another person) the following odometer disclosures are required:

(a) Between the owner (seller) in whose name the last title or other primary ownership document was issued and the first buyer; and

(b) Between the person who last transferred the vehicle and the current applicant for title.

(3) If a vehicle is transferred through multiple parties (e.g., a vehicle sold from dealer to dealer), only the first and last disclosure must be submitted to DMV as provided in section (2) of this rule. However, this does not exempt the in-between owners from requirements to obtain, provide, and in some cases, maintain records on odometer disclosures, as otherwise required by DMV rules, federal law or federal rules.

(4) DMV may accept an odometer disclosure from the buyer, rather than the seller, or accept a transfer where only one of the two disclosures required under section (2) of this rule is provided, in the following situations:

(a) The most recent buyer does not receive the required disclosure(s) from the seller or the disclosure is subsequently lost or destroyed, and the seller is not available or refuses to provide the required disclosure(s);

(b) Interest is transferred by operation of law and the person who transferred interest did not have possession of or reasonable access to the vehicle, such as a transfer ordered by a court;

(c) DMV is satisfied a disclosure(s) required under section (2) of this rule is otherwise not available;

(d) The owner shown on an out-of-state title does not make a disclosure. This exception does not apply if the owner on an out-of-state title sells the vehicle directly to an Oregon business required to keep records of odometer disclosures, identified in section (6) of this rule;

(e) The owner shown on an Oregon title sells the vehicle to an out-of-state dealer and does not make a disclosure, and the vehicle is subsequently transferred to an Oregon buyer.

(5) When accepting a disclosure from the buyer or accepting a transfer where only one of the two disclosures required under section (2) of this rule is received, DMV may require additional evidence or information as to why a disclosure from the seller or person required to provide the disclosure has not been provided:

(a) When a transfer occurs between private parties or businesses not required by federal rule or law to maintain odometer disclosure records, in lieu of evidence, DMV:

(A) May accept a certification from the buyer that includes a statement that a disclosure from the seller is not available; or

(B) If one of the two disclosures required under section (2) of this rule is provided, DMV may accept the transfer without requiring an additional disclosure or certification.

(b) When a vehicle is sold by or through a business required by federal rule to maintain odometer disclosure records, in addition to the certification described in subsection (5)(a) of this rule, DMV may require any or all of the following:

(A) Evidence that the buyer attempted to get the required disclosure from the seller, or evidence that the seller no longer is in business;

(B) A statement, certification or other evidence from the seller stating why the seller is unable to provide the required disclosure information; or

(C) A certified copy of the disclosure from the seller's records, if the original disclosure is not available.

(c) When a transfer occurs by operation of law:

(A) DMV will accept a certification from the buyer as provided in subsection (5)(a) of this rule, without requiring further information or evidence as to the availability of a disclosure from the person who transferred the interest, if the transfer is of the type where the person who is transferring interest would in many cases not have possession of, or reasonable access to, the vehicle (e.g., transfer by court order or bankruptcy trustee);

(B) DMV may require the information described in subsection (5)(b) of this rule, if the transfer is of a type where the person who is transferring interest would in most cases have possession of or reasonable access to the vehicle (e.g., possessory lien sale or sheriff's sale).

(6) Businesses required to maintain odometer disclosure records under federal rule or law include:

(a) Auction companies, which as used in this rule, includes any person who takes possession (whether through consignment or bailment, or through any other arrangement) of a motor vehicle owned by another person for purposes of selling such motor vehicle at an auction;

(b) Dealers, which for the purpose of odometer disclosures under this rule and under federal odometer provisions, includes:

(A) Any person who meets the definition of "dealer" as defined in OAR 735-150-0010, regardless of whether the person holds a business certificate issued under ORS Chapter 822; and

(B) Any person who meets the definition of "dealer" in federal rules and laws (i.e., has sold five or more motor vehicles in the past 12 months to purchasers who in good faith purchase such vehicles for purposes other than resale). For the purpose of this rule, DMV considers any Oregon dismantler or dealer who holds a certificate issued under ORS Chapter 822 to meet this definition.

(c) Distributors, which as used in this rule, means any person who has sold five or more vehicles in the past 12 months for resale; and

(d) Lessors, which as used in this rule, means any person or agent for any person who has leased five or more motor vehicles in the past 12 months.

(7) In addition to any information or documents required under section (5) of this rule, and except as otherwise provided in this rule, disclosures accepted from buyers must contain at least the following:

(a) The odometer reading, excluding tenths of a mile or kilometer;

(b) Vehicle information sufficient for DMV to identify the vehicle;

(c) A certification as to whether, to the best of the person's knowledge, the odometer reading reflects the actual mileage, is in excess of the designed mechanical odometer limit, or does not reflect the actual mileage;

(d) The printed name and written signature of the buyer; and

(e) The buyer's address.

(8) DMV may accept a disclosure on a form other than required under OAR 735-028-0020 through 735-028-0090:

(a) Examples of situations where DMV may accept alternative forms include:

(A) A disclosure required to be on a title that is in the possession of, and is being retained by DMV;

(B) DMV accepting a disclosure as provided under section (5) of this rule; or

(C) A disclosure made on a secure power of attorney that has not been transferred to a state issued disclosure form.

(b) DMV will not accept a disclosure on an alternative form when:

(A) A dealer signs a disclosure as both seller and buyer and does not use a secure power of attorney form; or

(B) A dealer uses a secure power of attorney form to make a disclosure when the title was not lost or in the possession of a lienholder.

(9) DMV may accept an odometer disclosure that does not contain all the information required by rule, if the documents received by DMV contain all of the following:

(a) The odometer reading;

(b) A certification as to whether, to the best of the person's knowledge, the odometer reading reflects the actual mileage, mileage in excess of the designed mechanical limit of the odometer, or does not reflect the actual mileage;

(c) Vehicle information sufficient for DMV to identify the vehicle; and

(d) The signature of the person making the disclosure.

(10) DMV may accept a secure power of attorney that does not contain all the information required by rule, if the documents received by DMV contain all of the following:

(a) The odometer reading;

(b) A certification as to whether, to the best of the person's knowledge, the odometer reading reflects the actual mileage, mileage in excess of the designed mechanical limit of the odometer, or does not reflect the actual mileage;

(c) Vehicle information sufficient for DMV to identify the vehicle;

(d) The signature of the person granting power of attorney; and

(e) The signature of the named attorney.

(11) DMV may retain a separate power of attorney filing and fee under OAR 735-028-0080(9) that does not contain all the required information.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060 & 821.080

Stats. Implemented: ORS 803.120, 815.425 & 49 CFR Part 580

Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-028-0100
Expedited Title Services

This rule establishes the procedures and requirements to obtain expedited title services from DMV under ORS 803.207.

(1) For purposes of ORS 803.207 and this rule, "expedited services" means a special service provided by DMV to priority-process a title transaction — when it is necessary — in order to comply with federal odometer disclosure requirements (odometer disclosure). Expedited services may include a registration transaction, if applicable.

(2) Expedited services are limited to title transactions that meet all of the following:

(a) There is a transfer of ownership interest in a vehicle that is subject to odometer disclosure (subject vehicle);

(b) The title is lost, destroyed or mutilated, or the assignments and odometer disclosures on the current Oregon title will not be accepted by an out-of-state purchaser's home jurisdiction; and

(c) A replacement or new Oregon title is needed as soon as possible in order to complete the required odometer disclosure.

(3) Examples of expedited services transactions include:

(a) When an Oregon vehicle dealer acquires a subject vehicle, the title is lost, destroyed or mutilated and a replacement title is necessary in order for the dealer to timely perfect a new security interest or timely provide a new title to a vehicle purchaser.

(b) When a non-Oregon resident purchases a subject vehicle in Oregon and is required to obtain an Oregon title in order to comply with the odometer disclosure requirements of the purchaser's home jurisdiction.

(4) To request expedited services, a person must mail the following to DMV:

(a) A written explanation signed by the person making the request that states why the transaction should be expedited and how the request relates to odometer disclosure requirements. This

subsection does not apply to an Oregon certified vehicle dealer requesting expedited services;

(b) An application for title, an application for registration (if applicable), and any other required documents or fees; and

(c) An additional fee for expedited services established under ORS 803.207.

(5) A request under section (4) of this rule must be mailed to: Expedite Desk c/o DMV Headquarters, 1905 Lana Avenue NE, Salem, Oregon 97314.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.140, 803.207, 803.370, 805.120, 815.405, 821.060 and 821.080
Stats. Implemented: ORS 803.207
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; DMV 8-2008, f. & cert. ef. 3-21-08

735-028-0110
Providing Secure Forms; Definitions

As used in OAR 735-028-0110, 735-028-0115 and 735-028-0150 and any agreement entered into under ORS 803.124 and OAR 735-028-0120:

(1) "DMV" means the Driver and Motor Vehicles Services Division of the Oregon Department of Transportation.

(2) "End user" means a person that buys or sells vehicles, or provides lending services for vehicles on a regular basis, including certified vehicle dealers, auto auctions, title companies and lending institutions.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.

(4) "Secure Forms Agent" or "Agent" means a person authorized by DMV by written agreement to provide secure forms to end users under the authority of ORS 803.124.

(5) "Secure Form" means a State of Oregon Secure Odometer Disclosure/Reassignment form (DMV Form 403) or a State of Oregon Secure Power of Attorney form (DMV Form 402), used for the purpose of making an odometer disclosure statement as required by state and federal laws.

(6) "Service Fee" means the fee amount established under OAR 735-028-0115 that a secure forms agent may charge an end user to provide secure forms.

(7) "Vendor" means a person authorized by written agreement with the Oregon Department of Administrative Services to print, store and provide secure forms to DMV and secure forms agents.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.102, 803.120, 803.124, 803.124 & 803.370
Stats. Implemented: ORS 802.200, 803.045, 803.092, 803.045, 803.124 & 803.126
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 2-2015, f. & cert. ef. 4-21-15

735-028-0120
Requirements for Authorization as a Secure Forms Agent

(1) DMV may authorize a person as a secure forms agent to purchase secure forms from a vendor to sell and distribute secure forms to end users on behalf of DMV as provided in ORS 803.124.

(2) An authorized secure forms agent is subject to all Oregon laws and DMV rules related to the distribution and sale of secure forms.

(3) A person that wishes to become a secure forms agent must submit a completed and signed secure forms agent agreement by mail to:

DMV Vehicle Programs
Attn: Vehicle Programs Manager
1905 Lana Avenue NE
Salem, OR 97314

(4) DMV will provide the applicant a copy of the secure forms agent agreement signed by the Vehicle Programs Manager if DMV approves the application. If DMV rejects the applicant's submission of a secure forms agent agreement, DMV will notify the applicant of the rejection in writing.

(5) DMV will reject a secure forms agent agreement, if the person:

(a) Submits a secure forms agent agreement that contains false information; or

(b) Has been terminated as a secure forms agent for any reason.

(6) A person whose application has been rejected may not reapply for at least one year from the date of the rejection.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.124
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 2-2015, f. & cert. ef. 4-21-15

735-028-0125
Fee for Providing Secure Forms

An agent may charge the end user a service fee authorized under ORS 803.124 for the service of providing secure forms. A service fee may not exceed 100 percent of the agent's cost to purchase secure forms from the vendor. In addition to the service fee, an agent may charge an end user the actual cost charged by the United States Postal Service or similar parcel delivery service for the delivery of secure forms.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.124
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: DMV 2-2015, f. & cert. ef. 4-21-15

735-028-0150
Control of Secure Forms — End User Responsibilities

An end user who purchases secure forms from a secure forms agent, a vendor or DMV:

(1) May use the forms only in conjunction with transfers of interest in vehicles the end user owned, currently owns or for which the end user is granted power of attorney; and

(2) May not sell or provide the forms to other parties except as required to complete a transfer of interest in a vehicle as described in section (1) of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 803.124
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 2-2015, f. & cert. ef. 4-21-15

DIVISION 30

GENERAL REGISTRATION PROVISIONS

735-030-0000
HVUT Definitions

As used in OAR 735-030-0000 through 735-030-0020, unless the context requires otherwise:

(1) "HVUT" means the Federal Heavy Vehicle Use Tax levied on certain vehicles.

(2) "IRS" means the Internal Revenue Service of the United States.

(3) "Tax Period" means the Federal Heavy Vehicle Use Tax period running from July 1 to June 30 of the following year.

(4) "Receipted" means stamped by the IRS indicating that payment has been received or that the tax was suspended.

(5) "Un-Receipted" means not stamped by the IRS indicating that payment has been received or that the tax was suspended.

Stat. Auth.: ORS 802.010 & 803.370
Stats. Implemented: ORS 803.370
Hist.: MV 35-1987, f. 11-18-87, ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0350

735-030-0010
Vehicles Subject to or Exempt from Providing HVUT Documentation

(1) Applications for registration or renewal of registration of the following vehicles shall include proof of HVUT compliance:

(a) A vehicle being registered for a registration period that begins prior to January 1, 1990, that:

(A) Is registered by loaded weight and is a motor vehicle with a registration weight of 20,001 pounds or more; or

(B) Is registered by unloaded weight (e.g., vehicles registered under ORS 805.300) and is a motor vehicle registered at an unloaded weight of 8,001 pounds or more.

(b) A vehicle being registered for a registration period that begins on or after January 1, 1990, and is a motor vehicle registered at a combined gross vehicle weight of 55,000 pounds or more; and

(c) School busses and school activity vehicles registered under ORS 805.050.

(2) Proof shall be for the current tax period during which the registration is applied for, except:

(a) For vehicles being registered for registration periods that begin prior to January 1, 1990, and where Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) records show that an exemption has been filed, no further documentation shall be required so long as there is no change in vehicle ownership; or

(b) When registration is applied for between July 1 and September 30 of any given year, in which case proof from the previous tax period shall be acceptable.

(3) Vehicles which are exempt from providing HVUT documentation are:

(a) Motor homes;

(b) Vehicles registered under ORS 805.040;

(c) All self-propelled fixed load vehicles as defined under ORS 801.285 and that have a registered weight in excess of 3,000 pounds; and

(d) Any other vehicle not described in section (1) of this rule.

Stat. Auth.: ORS 802.010, 803.370 & Ch. 723 (OL 1989)
Stats. Implemented: ORS 803.370
Hist.: MV 35-1987, f. 11-18-87, ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0360; MV 45-1989, f. & cert. ef. 10-16-89

735-030-0020
HVUT Proof

Proof of HVUT compliance may be in the form of:

(1) An original or photocopy of a receipted Schedule 1 portion of the IRS Form 2290 for the current tax period;

(2) A photocopy of both pages of an un-receipted IRS Form 2290 for the tax period in which application for registration was made plus proof of payment. Proof of payment may be in the form of:

(a) A canceled check showing payment was made to the IRS;

(b) A photocopy of the front and back of a canceled check showing that payment was made to the IRS; or

(c) Documentation provided by a bank or financial institution indicating that payment of HVUT has been made to the IRS.

(3) An indicator on the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) computer record for the vehicle showing that proof of compliance was previously provided for the current tax period;

(4) A receipted Schedule 1 portion of the Form 2290 for taxable period immediately preceding those months if the vehicle is being registered or renewed in July, August or September; or

(5) Documentation from the IRS which indicates the tax has been filed or reported to the IRS.

(6) Proof that the HVUT has been suspended, such as:

(a) An original or photocopy of a current, receipted Schedule 1 portion of the IRS Form 2290;

(b) Documentation from the IRS which indicates the tax has been suspended; or

(c) A photocopy of both pages of an unreceipted IRS Form 2290 showing that a suspension was applied for.

(7) Proof of exemption from having to show proof of payment or suspension of the tax, such as:

(a) The original or photocopy of a bill of sale or other documents which show the vehicle was purchased by the owner during the sixty days immediately prior to the date the application for registration was received by DMV;

(b) A signed statement from the applicant that the vehicle is considered a non-highway vehicle under federal law (**Section 4481** of the **1954 Internal Revenue Code,** as amended by **97-424 Public Law**, July 1, 1984, and **Subsection 4481–4483** of **Title 26** of the **1984 Code of Internal Revenue**); or

(c) For school busses and school activity vehicles registered under ORS 805.050, a statement from the applicant that the vehicle is government owned or operated or that the combined gross vehicle weight is less than 55,000 pounds.

Stat. Auth.: ORS 802.010, 803.370 & Ch. 723 (OL 1989)
Stats. Implemented: ORS 803.370
Hist.: MV 35-1987, f. 11-18-87, ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0370; MV 27-1988, f. & cert. ef. 12-1-88; MV 45-1989, f. & cert. ef. 10-16-89

735-030-0105
Registration Card; Contents

This rule is adopted under the authority of ORS 803.500(7). The purpose of the rule is to specify the information required by DMV to be shown on an Oregon registration card.

(1) In addition to the information specified under ORS 803.500(1) to (6), the following information is required to be shown on an Oregon vehicle registration card:

(a) Vehicle registration plate number;

(b) Vehicle title number;

(c) Registration card process date;

(d) Registration expiration date;

(e) Vehicle fuel type (i.e., gas, diesel, electric, hybrid, etc.);

(f) Equipment number, if applicable;

(g) Vehicle style (i.e., pickup, 4-door, 2-door, etc.);

(h) Vehicle weight and length, if applicable;

(i) Title brand(s), if issued pursuant to OAR 735-024-0025;

(j) Odometer message, if required under OAR 735-028-0040;

(k) Oregon county of residence;

(L) Oregon county of use, if applicable;

(m) If the registered owner is an individual, the person's current residence address, and mailing address if different from the residence address;

(n) If the registered owner is a business, the business address as defined in OAR 735-010-0008, and mailing address if different from the business address; and

(o) If the registered owner is an individual or business and the vehicle is primarily housed or dispatched from a location other than the actual residence or business address of the owner, the vehicle address as defined in OAR 735-010-0008.

(2) Notwithstanding subsections (1)(m), (1)(n) and (1)(o) of this rule, upon receipt of the registration card from DMV, the registered owner may black out or otherwise obscure the residence address, business address, mailing address and vehicle address shown on the registration card. No other information on the registration card may be blacked out or otherwise obscured.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.500
Stats. Implemented: ORS 803.500
Hist.: DMV 11-2012, f. 8-16-12, cert. ef. 8-17-12

735-030-0300
Purpose and Authority

Oregon administrative rules (OAR) 735-030-0300 to 735-030-0330 are adopted by DMV under the authority of ORS 803.350. These rules:

(1) Establish what constitutes proof of compliance with Oregon Low-Emission Vehicle Program standards implemented by DEQ under OAR chapter 340, division 257 for purposes of motor vehicle registration under ORS 803.350;

(2) Identify motor vehicles that are exempt from vehicle registration requirements for Oregon Low-Emission Vehicle Program standards; and

(3) Define terms contained in the rules.

Stat. Auth: ORS 184.616, 184.619, 802.010, 803.350, Ch. 366 OL 2007
Stats. Implemented: 803.350, Ch. 366 OL 2007
Hist.: DMV 15-2007, f. 12-24-07, cert. ef. 1-1-08

735-030-0310
Definitions

The following definitions apply to OAR 735-030-0300 to 735-030-0330:

(1) "Assembled vehicle" as defined in ORS 801.130 and these rules means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(2) "California motor vehicle emissions standards" means vehicle emissions regulations first adopted by California and which may be adopted by other states under sections 177 and 209 of the federal Clean Air Act.

(3) "Custom vehicle" means a motor vehicle that:

(a) Is a street rod as defined under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) model years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(4) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(5) "Emission control label" or "emissions label" means a tag, plate, or sticker made of metal, plastic or other material that is permanently affixed to a motor vehicle by the manufacturer in an area within the engine compartment (if any) or to the engine. An emissions label contains vehicle information that includes:

(a) The engine family number and engine displacement;

(b) Manufacturer identification and trademark;

(c) Vehicle tune-up and spark plug information; and

(d) Oregon Low-Emission Vehicle program standards compliance information as described in section (2) of OAR 735-030-0320. For example, an emissions label on a vehicle that complies with Oregon Low-Emission Vehicle Program standards, under OAR 735-030-0320, may include the statement, "this vehicle conforms to U.S. EPA regulations and is certified for sale in California," or "this vehicle is certified/legal for sale in 50 states." Conversely, an emissions label on a vehicle that does not comply with Oregon Low-Emission Vehicle Program standards may include the statement, "this vehicle is certified/legal for sale in 49 states."

(e) An example of an emission control label referred to in this rule is contained in **Appendix A**, which is incorporated into this rule by reference.

(6) "MCO" means Manufacturer's Certificate of Origin as defined in OAR 735-022-0300.

(7) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of a vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(8) "New vehicle" means a motor vehicle with model year of 2009 or newer with 7,500 miles or less on the odometer when the vehicle is initially registered under ORS 803.420(1), 805.100 or 805.120.

(9) "Oregon Low-Emission Vehicle Program standards" means low emission motor vehicle standards as adopted by the Department of Environmental Quality in OAR chapter 340, division 257.

(10) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth: ORS 184.616, 184.619, 802.010, 803.350, Ch. 366 OL 2007

Stats. Implemented: 803.350, Ch. 366 OL 2007

Hist.: DMV 15-2007, f. 12-24-07, cert. ef. 1-1-08

735-030-0320

Proof of Compliance with Oregon Low-Emission Vehicle Program Standards

(1) Unless exempt under OAR 735-030-0330, DMV will not issue registration to a new vehicle as defined under 735-030-0310 unless the applicant for registration provides proof to DMV that the vehicle meets Oregon Low-Emission Vehicle Program standards. Proof under this section must be provided to DMV at the time of application. DMV will accept the following as proof that a vehicle meets Oregon Low-Emission Vehicle Program standards:

(a) An MCO that shows the vehicle complies with California motor vehicle emissions standards; or

(b) Verification by DMV that the vehicle's emission control label complies with section (2) of this rule.

(2) For purposes of section (1) of this rule, an MCO or Emission control label must include at least one of the following:

(a) "This vehicle conforms to (or with) U.S. EPA and state of California regulations;"

(b) "This vehicle conforms to (or with) U.S. EPA regulations and is certified for sale in California;"

(c) "This vehicle conforms to California regulations applicable to new LEV passenger cars;"

(d) "This vehicle has a California emission system;"

(e) "This vehicle meets/satisfies California emission standards;"

(f) "This vehicle is certified/legal for sale in California;"

(g) "This vehicle is certified/legal for sale in 50 states;" or

(h) A similar statement that clearly indicates the vehicle complies with California emission standards/Oregon Low-Emission Vehicle Program standards, is certified legal for sale in 50 states or is certified legal for sale in California.

Stat. Auth: ORS 184.616, 184.619, 802.010, 803.350, Ch. 366 OL 2007

Stats. Implemented: 803.350, Ch. 366 OL 2007

Hist.: DMV 15-2007, f. 12-24-07, cert. ef. 1-1-08

735-030-0330

Vehicles Exempt from Oregon Low-Emission Vehicle Program Standards

The following vehicles are exempt from Oregon Low-Emission Vehicle Program standards:

(1) Vehicles sold for registration and use in a state not subject to California motor vehicle emission standards.

(2) Previously registered vehicles with more than 7,500 miles. For vehicle dealers, vehicle mileage at the time of sale is determined by the odometer reading at the time the dealer acquired the vehicle.

(3) Vehicles available only for rent to a final destination in a state that is not subject to California motor vehicle emission standards.

(4) Vehicles purchased by a nonresident before establishing residency in the State of Oregon, regardless of the mileage on the vehicle.

(5) Vehicles purchased by Oregon residents while assigned to active government service outside the State of Oregon.

(6) Vehicles transferred from one person to another due to: death, inheritance, devise or bequest; divorce, dissolution, annulment or legal separation; merger or consolidation; bankruptcy; court judgment or decree; or possessory lien, seizure or foreclosure.

(7) A vehicle acquired by an Oregon resident to replace a vehicle registered to the resident and that was stolen, damaged or failed beyond reasonable repair while out of state, provided that the replacement vehicle is acquired out of state when the previously-owned vehicle was either stolen, damaged, or failed beyond reasonable repair.

(8) A custom, replica or assembled vehicle that:

(a) Is maintained for occasional transportation, exhibitions, club activities, parades, tours, testing of operation, repair, maintenance and similar uses; and

(b) Is not used for general daily transportation.

Stat. Auth: ORS 184.616, 184.619, 802.010 & 803.350

Stats. Implemented: ORS 803.350

Hist.: DMV 15-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 14-2011, f. 12-22-11, cert. ef. 1-1-12

DIVISION 32

REGISTRATION PLATES AND FEES

735-032-0000
Replacement and Duplicate Registration Plates

(1) For the purpose of this rule the following definitions apply:

(a) "Replacement plate(s)" means the registered plate(s) that:

(A) Is issued when the plate(s) last assigned to a vehicle is lost, destroyed or mutilated, as provided in ORS 803.530; and

(B) Bears a different number or letter sequence than the plate(s) last assigned to that vehicle.

(b) "Duplicate plate(s)" means the registration plate(s) that:

(A) Is issued when the last plate(s) assigned to a vehicle is lost, mutilated or destroyed as provided in ORS 803.530; and

(B) Bears the same number or letter sequence as the plate(s) last assigned to the vehicle.

(2) If a registration plate(s) is lost (including loss by theft), mutilated or destroyed the vehicle owner may make application to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) for replacement or duplicate plates.

(3) To obtain replacement or duplicate plates the vehicle owner must make application to DMV and:

(a) Pay the replacement or duplicate plate fee as provided in ORS 803.575;

(b) Pay the plate manufacturing fee when required under ORS 803.570 and as provided in OAR 735-032-0010; and

(c) Meet any other applicable requirements for the title and registration of the vehicle.

(4) DMV will determine whether the plates issued are required to be issued as duplicate plates or replacement plates. In most cases, DMV will issue replacement plates.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.530, 803.570 & 805.200
Stats. Implemented: ORS 803.530
Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0300; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05

735-032-0010
Registration Plate Fees

(1) ORS 803.570 requires DMV to establish the fee amounts for each registration plate issued and for each pair of plates issued.

(2) The plate fee amounts are calculated by:

(a) Determining the cost to manufacture a single registration plate and a pair of registration plates (cost), respectively, and rounding the cost amount(s) to the next higher half-dollar; and

(b) Adding $10 for a single plate and $20 for a pair of plates, respectively.

(3) Based on the calculation under section (2) of this rule, registration plate fees are:

(a) $12 for a single plate issued ($2 cost + $10 = $12).

(b) $24 for a pair of plates issued ($4 cost + $20 = $24).

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.570
Stats. Implemented: ORS 803.570
Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0310; MV 21-1988, f. 6-29-88, cert. ef. 7-1-88; DMV 4-1997, f. 1-24-97, cert. ef. 4-1-97; DMV 5-2003(Temp), f. 5-14-03, cert. ef. 7-1-03 thru 12-27-03; DMV 32-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 8-2004, f. & cert. ef. 5-24-04; DMV 18-2009(Temp), f. 9-29-09, cert. ef. 10-1-09 thru 3-29-10; DMV 4-2010, f. & cert. ef. 2-25-10; DMV 3-2012, f. 3-26-12, cert. ef. 4-1-12

735-032-0020
Plates Considered Void

Registration plates that are required to be surrendered to DMV are void and may not be used to register or operate a vehicle again. This does not apply to plates surrendered to DMV in error and that have not already been destroyed.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 803.350, 803.380, 803.590, 809.080 & 809.110
Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0320; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08

735-032-0025
Proof of Registration Renewal

Proof of vehicle registration, for the purposes of ORS 803.550 and 803.560, as amended by Chapter 154, Oregon Laws 2015, is a receipt of payment for vehicle registration renewal from DMV that shows:

(1) The vehicle registration plate number, vehicle year, vehicle make and VIN;

(2) The date the vehicle registration renewal transaction was transmitted to or received by DMV; and

(3) The new expiration date of the vehicle registration.

(4) Proof of registration under this rule may be provided in electronic or paper form. This includes an image or display on an electronic device.

Stat. Auth.: ORS 184.616, 184.619, 802.012, ORS 803.460, 803.550, 803.560 & 2015 OL Ch. 154
Stats. Implemented: ORS 803.550, 803.560 & 2015 OL Ch. 154,
Hist.: DMV 7-2015, f. 9-21-15, cert. ef. 1-1-16

735-032-0030
Display of Temporary Registration Permits

(1) Temporary registration permits issued under ORS 803.625 must be readable from the outside of the vehicle and placed as follows:

(a) Motorcycle or moped: on the rear of the vehicle where the license plate is normally attached. If the vehicle is not designed or equipped to accept a rear license plate, the permit must accompany the vehicle as described in section (2) of this rule.

(b) Vehicle with a rear window: inside, on the left side and lower corner of the rear window.

(c) Vehicle carrying a camper or canopy: inside, on the left side and lower corner of the rear window of the camper or canopy.

(d) Travel trailer: on the left side and lower corner of the rear window.

(e) Vehicle with no rear window (including a camper, canopy or travel trailer): inside, on the left-rear side window.

(f) Vehicle with no window or left-rear side window: inside, on the left side of the dashboard.

(2) If the permit cannot be placed as described in section (1) of this rule, it must accompany the vehicle and be available for inspection upon request by a law enforcement officer or any other person authorized to inspect vehicle registration. The permit may be kept on the vehicle operator's person or in a storage area on the vehicle.

(3) Temporary registration permits must be placed on or remain with the vehicle as described in sections (1) and (2) of this rule until replaced with valid license plate(s) or until the permit expires, whichever comes first.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.615, 803.625, 803.650 & 803.655
Stats. Implemented: ORS 803.540, 803.615, 803.625, 803.635, 803.650 & 803.655
Hist.: MV 1-1989, f. & cert. ef. 1-3-89; DMV 19-2008, f. & cert. ef. 8-26-08

735-032-0036
Display of Registration Stickers

(1) Purpose and Authority. This rule establishes the requirements for the display of registration stickers on vehicle registration plates as authorized under ORS 803.560.

(2) Definitions. Terms used in ORS 803.560 and this rule are defined as follows:

(a) "Combined month-year sticker" means a single registration sticker issued with:

(A) A month number as described in subsection (b) of this section; and

(B) A year number as described in subsection (d) of this section.

(b) "Month sticker" means a registration sticker issued with a single month number from 1 to 12 that designates the calendar month, in which registration expires. The number "1" represents an

expiration date in January; the number "2" represents an expiration date in February and so on.

(c) "Registration sticker" means a numbered adhesive-backed sticker, issued by DMV or a designated agent as evidence of vehicle registration for a specific length of time.

(d) "Year sticker" means a registration sticker issued with a two-digit year number that designates the year registration expires. For example, the two-digit number for registration that expires 2012 is "12." The number "16" designates an expiration year of 2016.

(3) Display of Stickers. Registration stickers must be displayed on the front side of each registration plate, and attached to the designated area as follows:

(a) The combined month-year sticker is attached at the bottom center of the registration plate;

(b) The month sticker is attached at the bottom left of the registration plate; and

(c) The year sticker is attached at the bottom right of the registration plate.

(4) An example of the correct placement of registration stickers — described under subsection (3) of this rule — is contained in Appendix A, which is incorporated into this rule by reference.

[ED. NOTE: The Appendix referenced is available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.560

Stats. Implemented: ORS 803.560

Hist.: DMV 2-2009, f. & cert. ef. 2-20-09

735-032-0040

Application of Heavy Motor Vehicle Registration Fees

(1) The provisions of this rule apply to a decrease in registration fees established by Chapter 880, Oregon Laws 1991 (Enrolled HB 2223).

(2) When application is made for renewal of registration for a registration period that begins prior to January 1, 1992 (e.g., September expiration plates which are renewed for a period beginning October 1, 1991) the applicant shall pay the registration renewal fee in effect before January 1, 1992.

(3) When application is made for registration or renewal of registration for a period beginning on or after January 1, 1992, the applicant shall pay the fees in effect on January 1, 1992.

Stat. Auth.: ORS 802.010, 803 & Ch. 880, OL 1991

Stats. Implemented: ORS 803.420

Hist.: MV 19-1989, f. & cert. ef. 9-18-89; MV 29-1991, f. 12-16-91, cert. ef. 1-1-92

735-032-0050

Application of Vehicle Registration Fees

(1) This rule applies to any change in registration fees. Regardless of when an applicant applies for registration or renewal of registration or pays the registration fee, DMV will require payment of the registration fee in effect at the time the registration period begins.

(2) When application is made for renewal of registration for a registration period that begins before the date a fee change takes effect, the registration renewal fee is the fee amount in effect before the change.

Example: If the registration fee decreases from $90 to $54 effective January 1, the registration or registration renewal fee for a registration period that begins before January 1 is $90.

(3) When application is made for registration or renewal of registration for a registration period that begins on or after the date a fee change takes effect, the fee is the fee amount in effect after the change.

Example: If the registration fee increases from $54 to $90 effective January 1, the registration or registration renewal fee for a registration period that begins on or after January 1 is $90.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.420

Stats. Implemented: ORS 803.420

Hist.: MV 10-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 16-2007, f. 12-24-07, cert. ef. 1-1-08

735-032-0055

Registration of Emergency Fire Apparatus

(1) For purposes of this rule, the following definitions apply:

(a) "Emergency fire apparatus" means a vehicle such as, but not limited to, a fire truck, fire engine, tanker or any other similar vehicle that is primarily designed and used for public fire protection and suppression.

(b) "Fire service agency" means a unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, public fire protection and suppression services in Oregon, including, but not limited to, the Oregon Department of Forestry, a rangeland fire protection association, a rural fire protection district, a city fire department, or a private fire department.

(2) DMV may issue Oregon registration for an emergency fire apparatus that is exempt from registration requirements under ORS 803.305(8), if the vehicle owner:

(a) Is a fire service agency;

(b) Submits an application for Oregon registration that meets the requirements of ORS 803.370; and

(c) Meets the qualifications for issuance of registration under ORS 803.350, including but not limited to:

(A) At the time of application, the applicant requests and is issued a vehicle title in the applicant's name, or presents satisfactory evidence that an Oregon title covering the vehicle has been issued to the applicant; and

(B) Pays the appropriate registration fees under ORS 803.420, and, if applicable, title fees.

(3) Effect of Registration. Upon the issuance of Oregon registration under section (2) of this rule:

(a) The vehicle owner must comply with all applicable state and federal laws, rules and regulations related to the registration of vehicles; and

(b) The vehicle is subject to all provisions of the Oregon Vehicle Code applicable to vehicles registered in Oregon until the vehicle is registered under the laws of another jurisdiction.

(4) Notwithstanding sections (1) and (2) of this rule, DMV may refuse to issue Oregon registration if:

(a) The vehicle is not manufactured primarily for operation on a highway;

(b) The vehicle does not comply with federal vehicle standards as described under OAR 735-022-0090; or

(c) Issuance of Oregon registration violates the law of another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.305 & 803.310

Stats. Implemented: ORS 803.305

Hist.: DMV 5-2012, f. & cert. ef. 5-18-12

735-032-0065

Collection of County or District Registration Fees

(1) This rule specifies the procedures and requirements when DMV collects c1ounty or district registration fees pursuant to ORS 801.040, 801.041, 801.042 and 803.445.

(2) As used in this rule the following definitions apply:

(a) "County" means a unit of local government as defined in ORS 190.003.

(b) "County or district ordinance" means an ordinance enacted by the governing body of a county or district establishing registration fees imposed on subject vehicles.

(c) "County or district registration fees" means county vehicle registration fees or district vehicle registration fees established and imposed under a county or district ordinance and collected by DMV upon registration and renewal of registration of a subject vehicle.

(d) "District" means a unit of local government as defined in ORS 190.003 and includes a mass transit or transportation district, or a metropolitan service district, as defined in ORS 801.237.

(e) "Merchant fee" means the fee charged to DMV by a credit or debit card company to process a credit or debit card transaction. DMV is charged a merchant fee each time a customer pays registration fees, including county or district registration fees, using a credit or debit card.

(f) "Registration" means the initial recording of a vehicle as authorized for use within the State of Oregon pursuant to ORS 803.350.

(g) "Registration renewal" or "renewal" means an extension of registration.

(h) "State registration fees" means the fee amounts collected under ORS 803.420 upon initial registration or registration renewal of a vehicle authorized to operate for use within the State of Oregon pursuant to ORS 803.350.

(i) "Subject vehicle" means a vehicle registered or required to be registered at a residence or business address within a county or district and which is subject to a county or district registration fee.

(3) DMV will collect county or district registration fees, upon request of a county or district qualified under ORS 801.041 or 801.042 to impose vehicle registration fees. DMV will collect county or district registration fees in addition to state registration fees.

(4) Before collecting county or district registration fees, the county or district must enter into an intergovernmental agreement with DMV. The intergovernmental agreement will include the following:

(a) A citation of the county or district ordinance number authorizing the imposition of county or district registration fees and granting DMV authority to collect county or district vehicle registration fees;

(b) A description of each vehicle type subject to county or district registration;

(c) For each vehicle type subject to county or district registration fees, the county or district registration fee amount(s) and the registration period(s);

(d) The date DMV will begin collecting county or district registration fees;

(e) A per-transaction administrative fee to cover DMV expenses, which will be deducted prior to transfer of county or district registration fees to the county or district. A per-transaction administrative fee does not include merchant fees, refunds or uncollectible debt;

(f) A description of how and when the moneys collected by DMV under the agreement are paid to the county or district after the deduction of DMV's expenses for collection, transfer and administration of county vehicle registration fees, and any deduction for credits described in ORS 803.445(5); and

(g) The method for resolving disputes regarding imposition and collection of a county or district registration fee by a vehicle owner and payment of a refund if it is determined a fee was collected in error or it is determined no county or registration fee is owing.

(5) DMV will transfer to the county or district the moneys due on a monthly basis unless another basis is established in the intergovernmental agreement between DMV and the county or district.

(6) This rule shall apply to collection of county or district registration fees beginning September 1, 2010.

Stat. Auth.: ORS 184.616, 184.619, 190.110, 801.040, 801.041, 801.042, 802.010, 802.110, 803.420 & 803.445

Stats. Implemented: ORS 801.040, 801.041, 801.042, 802.110, 803.420 & 803.445

Hist.: DMV 12-2010(Temp), f. & cert. ef. 6-16-10 thru 12-10-10; DMV 22-2010, f. & cert. ef. 12-22-10

735-032-0070
Notification of Employment Address; Exemption from County Registration Fees

(1) For the purposes of this rule, the following definitions apply:

(a) "Authorized agency representative" means a person authorized to act on behalf of the public agency by law or the director of the agency.

(b) "Eligible employee" has the same meaning as defined in ORS 802.250.

(c) "Employment address" means the address of the public agency employing an eligible employee.

(d) "Residence address" has the same meaning as defined in OAR 735-010-0008.

(2) To notify DMV when an eligible employee or household member's residence address is not within the county of the employment address as provided by ORS 801.041, as amended by Chapter 404, Oregon Laws 2015, the public agency employing the eligible employee must submit to DMV a completed and signed Request for Police or Public Agency Address on DMV Records form (735-6438A). The form must:

(b) Include a written certification from an authorized agency representative stating that the eligible employee or household member's residence address is not within the county of the employment address; and

(c) Be submitted to: DMV Confidential Records Desk, 1905 Lana Ave. NE, Salem, OR, 97314.

Stat. Auth.: ORS 184.616, 184.619, 190.110, 801.040, 801.041, 802.010, 802.110, 803.420, 803.445, Ch. 404 OL 2015

Stats. Implemented: ORS 801.040, 801.041, 802.110, 803.420 & 803.445, Ch. 404 OL 2015

Hist.: DMV 8-2015, f. 11-17-15, cert .ef. 1-1-16

DIVISION 34

VEHICLE PERMITS

735-034-0000
Definitions of Trip Permit Agents

As used in OAR 735-034-0000 to 735-034-0010 and any agreement entered into under OAR 735-034-0005:

(1) A "trip permit agent" or "agent" is a person authorized by Oregon law, administrative rule or designated by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to issue trip permits on behalf of DMV.

(2) "Arrangements," as used in ORS 803.600(5), means the process for designating trip permit agents pursuant to OAR 735-034-0005.

(3) A "General Trip Permit Agent" is an agent authorized to issue light vehicle trip permits, recreational vehicle trip permits, registration weight trip permits, registered vehicle trip permits, and heavy motor vehicle and heavy trailer trip permits.

(4) A "Heavy Vehicle Trip Permit Agent" is an agent authorized to issue heavy vehicle trip permits for their own vehicles or vehicles under their control.

(5) A "Restricted Trip Permit Agent" is an out-of-state dealer authorized as an agent to issue light vehicle trip permits to customers whose vehicles will be titled and registered in Oregon.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.

Stat. Auth.: ORS 184.616, 184.619, 803.600 - 803.650 & 806.080

Stats. Implemented: ORS 803.600, 803.602, 803.605, 803.640

Hist.: MV 19-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-110-0050; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 9-1998, f. & cert. ef. 8-20-98; DMV 14-2001, f. & cert. ef. 8-13-01; DMV 3-2011, f. & cert. ef. 3-16-11

735-034-0005
Requirements for Designation as a Trip Permit Agent

(1) DMV may designate a person or business as a vehicle trip permit agent to issue vehicle trip permits to the public on behalf of DMV.

(2) A person wishing to be designated as a vehicle trip permit agent must enter into a vehicle trip permit agent agreement with DMV.

(3) A designated trip permit agent, vehicle dealer, towing business, or other person authorized by Oregon law to issue trip permits is subject to all Oregon statutes and DMV rules relevant to the issuance and sale of trip permits.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600, 803.645, 806.080

Stats. Implemented: ORS 803.600, 803.602, 803.605, 803.640

Hist.: DMV 14-2001, f. & cert. ef. 8-13-01; DMV 3-2011, f. & cert. ef. 3-16-11

735-034-0010
Procedures for Issuance of Trip Permits

(1) This rule describes the procedures and requirements for vehicle trip permits issued under the authority of ORS 803.600. Vehicle trip permits may be issued by:

(a) A trip permit agent pursuant to ORS 803.600 and OAR 735-034-0005;

(b) A vehicle dealer pursuant to ORS 802.031 and OAR 735-150-0040, including a vehicle dealer who issues 10-day trip permits as described under ORS 803.600; or

(c) A towing business that issues 10-day trip permits as described under ORS 803.600.

(2) A person described under section (1) of this rule must comply with the following requirements for the issuance of trip permits:

(a) Unless otherwise authorized in writing by DMV, trip permits must be purchased from DMV prior to issuance.

(b) Each trip permit issued must be legibly completed with the following information:

(A) The name and address of the vehicle's registered owner or the person applying for the trip permit. The name and address is recorded on the issuer's copy and DMV's copy of the permit;

(B) The driver license number of the vehicle's registered owner or the person applying for the trip permit, if available. Nothing may be written on the purchaser's (window) copy of the permit to identify the person to whom the permit was issued;

(C) A complete vehicle description, including the year, make, body style and vehicle identification number (VIN);

(D) The written signature of the person who issues the permit. This must include at least the person's full first and last name;

(E) The identification number of the trip permit agent, if one has been assigned by DMV, or the certificate number of the dealer or towing business;

(F) The effective date and expiration date of the permit;

(G) For a registration weight trip permit, the registration weight of the vehicle.

(c) For a light vehicle trip permit, the person who issues the permit must require the applicant to sign a certification stating:

(A) The insurance company name and policy number; and

(B) The motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080, and that the vehicle will continue to be covered as long as the permit is valid.

(d) A vehicle dealer or towing business that issues a 10-day trip permit:

(A) Must ensure all Oregon registration stickers have been removed in accordance with 803.565;

(B) May not issue more than two permits for the same motor vehicle; and

(C) Must require the person applying for the permit to provide the insurance company name and policy number on the permit, and sign the certification on the permit stating that the motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid.

(e) For a recreational vehicle trip permit, the person who issues the permit must require the applicant to:

(A) Provide proof of ownership as described in OAR 735-034-0050;

(B) Sign a certification stating that the applicant has not been issued recreational vehicle trip permits that, when included with the permit being applied for, would grant more than 10 days vehicle operation for the preceding 12 months;

(C) Provide the insurance company name and policy number if the trip permit is for a motor home; and

(D) Sign the certificate on the permit, stating that the recreational vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid if the trip permit is for a motor home.

(f) A person authorized to issue a trip permit under section (1) of this rule:

(A) Must send DMV's copy of the permit to DMV within seven (7) days of the date a permit is issued; and

(B) May not loan, transfer or assign a trip permit to any other person.

(3) Any alteration of the permit information will automatically void the permit:

(a) When a trip permit is voided, the trip permit agent, vehicle dealer, or towing business must return the vehicle (purchaser's) copy and DMV's copy to DMV within seven (7) days of the date it was voided, along with an explanation of why the permit was voided. If either copy of the voided permit is unavailable for submission to DMV, the explanation must state the reason; and

(b) If DMV is satisfied that a prepaid permit was not altered or used for the operation of a vehicle, DMV will refund the prepaid permit fee to the trip permit agent, vehicle dealer or towing business that purchased the permits from DMV.

(4) Upon receipt of a written request from a trip permit agent, vehicle dealer or towing business subject to this rule, DMV will refund the fee amount for each unissued prepaid permit.

(5) Upon DMV's written request, a trip permit agent, vehicle dealer or towing business subject to this rule must immediately cease issuing permits and immediately return all unused trip permits to DMV. DMV will issue a refund to the trip permit agent, vehicle dealer or towing business for any unused prepaid permits returned to DMV.

(6) DMV may revoke the authority of a trip permit agent, vehicle dealer or towing business to issue trip permits:

(a) For failure to comply with any provision of this rule;

(b) If DMV determines the issuance of permits is not in the interest of the public; or

(c) A change in state or federal law or regulation prohibits the issuance of trip permits as described under this rule or OAR Chapter 735, Division 034.

(7) The failure of a trip permit agent, vehicle dealer or towing business to comply with the provisions of this rule may result in the revocation of the authority to issue trip permits.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600
Stats. Implemented: ORS 803.565, 803.600, 803.602, 803.645, 806.080
Hist.: MV 19-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-110-0060; MV 2-1989, f. & cert. ef. 1-3-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 9-1998, f. & cert. ef. 8-20-98; DMV 14-2001, f. & cert. ef. 8-13-01; DMV 28-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 28-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 9-2004, f. & cert. ef. 5-24-04; DMV 7-2005, f. & cert. ef. 2-16-05; DMV 3-2011, f. & cert. ef. 3-16-11

735-034-0020
When Registered Vehicle Trip Permit May Not Be Purchased

(1) Registered Vehicle Trip Permits may not be purchased in those situations where:

(a) The vehicle is currently registered; and

(b) The registration is of a type where the owner is required to certify (under penalty) that the vehicle will not be used for purposes not allowed under the registration type.

(2) Examples of those situations where Registered Vehicle Trip Permits may not be purchased include:

(a) Vehicles currently registered under farm registration under ORS 805.300; and

(b) Vehicles currently registered under proportional farm registration under ORS 805.400.

Stat. Auth.: ORS 802.010, 803.600 - 803.645 & 805.300 - 805.400
Stats. Implemented: ORS 803.600
Hist.: MV 19-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-110-0070

735-034-0040
Display of Trip Permits

(1) Except as otherwise provided in this rule, trip permits for self-propelled vehicles shall be placed on the driver's side of the vehicle in the lower corner of the rear window.

(2) Trip permits may be placed in areas other than as provided in section (1) of this rule in situations where placement in the rear window is not possible or is impractical, including but not limited to situations where:

(a) The vehicle is not equipped with a rear window;

(b) The permit would not be visible or legible from outside the vehicle if it were placed in the rear window;

(c) The vehicle is a motorcycle, snowmobile, or Class 1 all-terrain vehicle;

(d) The permit was issued by teletype or transceiver;

(e) The vehicle has louvers placed over the rear window which are attached to the vehicle; or

(f) The vehicle is a pickup truck with a camper attached.

(3) When a trip permit is not required to be placed in the rear window as provided in section (2) of this rule, it shall be placed in the lower right-hand corner of the rear, side window on the driver's side of the vehicle if the vehicle is equipped with one. If the vehicle does not have a rear side window on the driver's side of the vehicle, the permit shall be placed as follows:

(a) In the rear window of a camper, canopy or similar equipment when the permit is issued to the pickup carrying such equipment;

(b) On the dashboard on the driver's side of the vehicle visible through the windshield; or

(c) In the vehicle in a manner readily accessible for inspection upon request, when the permit is issued by teletype or transceiver, or where placement in any of the other allowed locations is not possible or practical.

(4) Trip permits for non-self propelled vehicles shall be carried in either the transporting vehicle or the vehicle which is being towed. In either case the permit shall be carried in a manner that makes it readily available for inspection upon request.

Stat. Auth.: ORS 802.010, 803.030, 803.600 - 803.645 & Ch. 166, OL 1987
Stats. Implemented: ORS 803.600
Hist.: MV 19-1986, f. & ef. 12-1-86; MV 13-1987, f. & ef. 9-16-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0090

735-034-0050
Issuing Trip Permits

(1) The following procedures and requirements apply to the issuance of vehicle trip permits under ORS 803.600.

(2) Trip permits are issued and are valid for a period of consecutive days based on permit type.

(3) Except as described in subsection (e) of this section, a registration weight trip permit is required for a vehicle under the following circumstances:

(a) The vehicle is registered in Oregon by loaded weight and the weight exceeds the registration weight of the vehicle declared under ORS 803.435;

(b) The vehicle is registered in Oregon by combined weight, and the combined weight exceeds the registration weight declared under ORS 803.435; or

(c) The vehicle is a commercial vehicle registered by combined weight under ORS 826.009, 826.011 or 826.031, and the weight exceeds the registration weight declared under ORS 826.015.

(d) If the vehicle is registered by combined weight under subsection (b) or (c) of this section, a registration weight trip permit is only issued to the motor vehicle used to tow a trailer or load.

(e) Subsection (b) of this section does not apply to a vehicle registered by combined weight, if the vehicle is towing a person's own commercial fishing boat and the combined weight of the vehicle, boat and trailer is 15,000 pounds or less.

(4) A heavy motor vehicle trip permit or heavy trailer trip permit may only be issued to vehicles that are not registered in Oregon. Either permit authorizes the operation of a single, unregistered vehicle. For example, if a truck/trailer combination is not registered in Oregon, and is not operating under the authority of an interstate reciprocity agreement, then both the truck and the trailer must obtain a permit. If, however, one of the two vehicles is registered, for example, the trailer, then only the truck is required to have a permit.

(5) An applicant for a recreational vehicle trip permit must:

(a) Certify that during the preceding 12-month period they have not been issued recreational vehicle trip permits that when included with the permit being applied for would grant more than 10 days operation for the vehicle listed on the permit;

(b) Provide proof satisfactory to DMV that the applicant is the owner of the camper, travel trailer or motor home listed on the permit application. Proof DMV may consider includes a valid certificate of title, a bill of sale or other ownership document as described in OAR 735-022-0000; and

(c) If the permit is for a motor home, provide the name and policy number of the current insurance carrier and certify that the motor home is covered, and will continue to be covered by insurance as required by ORS 806.080 for as long as the permit is valid.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600, 803.625, 803.635, 803.640, 803.655, Ch. 50, OL 2007
Stats. Implemented: ORS 801.420, 803.430, 803.600, 803.625, 803.635, 803.640, 803.655, 803.665, 806.080, 810.490, Ch. 50, OL 2007
Hist.: MV 52-1989, f. & cert. ef. 12-1-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 9-1998, f. & cert. ef. 8-20-98; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 8-2007(Temp), f. & cert. ef. 5-24-07 thru 11-18-07; DMV 10-2007, f. & cert. ef. 10-17-07

DIVISION 40

PARTICULAR VEHICLES/PERSONS

735-040-0000
Special Interest Registration

(1) "Established Organization" for the purpose of this rule is as defined in OAR 735-040-0010.

(2) "Sanctioned By" for the purpose of this rule means the vehicle has been appraised under the standards set by an established organization, and the vehicle has received a certification from the organization that this vehicle qualifies, based on these standards, as a vehicle of special interest.

(3) "Special Interest Registration" means the permanent registration under ORS 805.020 for vehicles of special interest. Also any documents or devices issued or approved as evidence of that registration.

(4) "Vehicle of Special Interest" is as defined in ORS 801.605.

(5) To qualify for special interest registration the vehicle owner shall submit to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV):

(a) A declaration verifying that the vehicle qualifies as a vehicle of special interest and that the vehicle will be maintained as a collector's item;

(b) A certification from an established organization verifying that they sanctioned the vehicle as a vehicle of special interest. This certification shall not be required for vehicles having a year model that is at least 25 years old on the date of application; and

(c) The permanent registration fee established under ORS 803.420(7).

(6) The vehicle owner shall meet all other applicable requirements for title and registration.

(7) DMV shall provide forms for the purpose of compliance with section (5) of this rule. DMV may approve declarations or certifications on forms other than those provided by DMV.

(8) Vehicles of special interest may be registered:

(a) With special interest registration plates furnished by the applicant and approved by DMV as provided in ORS 805.210; or

(b) With registration plates issued by DMV for the purpose of reflecting special interest registration. Such plates shall have an (SP) prefix.

Stat. Auth.: ORS 801.605, 802.010, 803, 805.020, 805.030 & 805.210
Stats. Implemented: ORS 801.605 & 805.020 - 805.030
Hist.: MV 9-1980, f. & ef. 5-27-80; MV 28-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0057

735-040-0010
Established Organizations — Vehicles of Special Interest

(1) "Established Organization" for the purpose of this rule and OAR 735-040-0000 means an organization that:

(a) Has a charter or set of bylaws providing for the preservation, promotion, appreciation or display of vehicles of special interest or antique vehicles, or is a recognized entity formed under the laws of a parent organization that has such a charter or bylaws;

(b) Has a set of standards relating to upkeep and to the preservation of vehicles identified in such charter or bylaws;

(c) Has a membership of at least ten people;

(d) Is recognized within the State of Oregon by at least four other organizations as promoting the preservation of vehicles of special interest; and

(e) Has made application to Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) and has been designated as an "established organization" by DMV.

(2) DMV shall designate organizations as established organizations. Only those so designated shall sanction vehicles as vehicles of special interest for the purpose of registration under ORS 805.020.

(3) Organizations who want to be so designated shall file with DMV all of the following:

(a) A copy of their charter or by-laws;

(b) A copy of their standards for vehicles whose preservation they promote;

(c) The names and addresses of persons within their organization who are authorized to verify that particular vehicles meet the organization's standards, and are sanctioned as vehicles of special interest; and

(d) A letter(s) from four other such organizations indicating that the organization is recognized for promoting the preservation of special interest vehicles.

(4) DMV shall notify organizations of their designation as an established organization when their request has been approved.

(5) Established organizations shall:

(a) Maintain current information on file with DMV at all times on the names and addresses of persons authorized to sanction vehicles as vehicles of special interest;

(b) Maintain current information on file with DMV at all times on the organization's charter, bylaws and standards;

(c) Not limit their sanctioning of vehicles to vehicles owned by members of their organization;

(d) Notify DMV within 30 days from the date the organization ceases to meet any of the requirements for designation as an established organization; and

(e) Notify DMV immediately should the organization choose to no longer sanction vehicles as vehicles of special interest for the purpose of vehicle registration.

(6) DMV may cancel an organization's designation as an established organization if DMV determines that:

(a) The organization does not meet the requirements for designation as an established organization;

(b) The organization has provided a false certification sanctioning a vehicle as a vehicle of special interest; or

(c) The organization has failed to comply with section (5) of this rule.

Stat. Auth.: ORS 801.605, 802.010, 803, 805.020, 805.030 & 805.210
Stats. Implemented: ORS 801.605 & 805.020 - 805.030
Hist.: MV 28-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0040

735-040-0020
Definition of a Federally Recognized Indian Tribe

As used in ORS 805.040, a "federally recognized Indian tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians.

Stat. Auth.: ORS 802.010 & 805.040
Stats. Implemented: ORS 805.040
Hist.: MV 19-1985, f. 12-30-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0020

735-040-0030
Documents Needed to Issue Disabled Veteran Registration Plates

In addition to any other registration requirements, an applicant for disabled veteran registration plates must submit the following to DMV:

(1) A completed and signed Application for Disabled Veteran Plates (DMV Form 6736) and all applicable fees.

(2) A letter, including a form DD214, issued by the U.S. Department of Veterans Affairs or any branch of the Armed Forces of the United States showing the applicant is a disabled veteran.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.100
Stats. Implemented: ORS 805.100
Hist.: MV 27-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0050; MV 22-1989, f. & cert. ef. 10-3-89; DMV 6-1996, f. & cert. ef. 8-15-96; DMV 2-1998, f. & cert. ef. 2-19-98; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 15-2011, f. 12-22-11, cert. ef. 1-1-12

735-040-0040
Definitions

As used in OAR 735-040-0040 through 735-040-0130:

(1) "Anticipated Costs," for the purposes of ORS 805.225 and this rule, means costs incurred by DMV to add a plate to the special registration plate program, including but not limited to, application review costs, computer programming costs, vendor set-up fees, plate design costs and production setup costs.

(2) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(3) "Gold Star Family registration plate" means a registration plate issued to a surviving family member of a person killed in action during an armed conflict while serving in the Armed Forces of the United States.

(4) "Group plates" means group registration plates approved for issuance by DMV under ORS 805.205, before August 17, 2015, to an institution of higher education or non-profit group that is tax exempt under 501(c)(3) of the Internal Revenue Code.

(5) "Special registration plate" means a registration plate issued by DMV under ORS 805.222 and 805.225.

(6) "Special registration plate program" means the special registration plate program established by DMV in accordance with ORS 805.222 to 805.225 and OAR Chapter 735, Division 040.

(7) "Organization" means any nonprofit group, institution of higher education or public body that applies for or receives approval for the issuance of a special registration plate pursuant to applicable provisions of the Oregon Vehicle Code and DMV rules.

(8) "Institution of Higher Education" or "institution" means a postsecondary-institution that is:

(a) A public university listed in ORS 352.002, or

(b) An Oregon-based and accredited, community college or nonprofit private university or college.

(9) "Nonprofit group" means a nonprofit group that meets the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code.

(10) "An expression of political opinion" includes, but is not limited to, any artwork, image, name, logo, mark, slogan, letter or word that expresses or suggests a viewpoint related to:

(a) A candidate for election, measure or petition;

(b) A person, group or subject associated with politics or the political process; or

(c) A social issue or cause that is divisive, and, as a result, becomes a political issue, for example, abortion, immigration or the environment.

(11) "An expression of religious belief" includes, but is not limited to, any artwork, image, name, logo, mark, slogan, letter or word that affirms or supports a particular religion or creed, expresses adherence to a particular religious sect or denomination, expresses belief in or the absence of belief in a supreme being or promotes or discourages any form of exercise of religion.

(12) "Public body" has the same meaning as set forth in ORS 174.109.

(13) "Veterans' group" as used in ORS 805.105 and Division 40 rules, means a group or organization that meets the qualifications

for veterans' recognition registration plates under OAR 735-040-0080.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205, 805.105, 805.222 & 805.225
Stats. Implemented: ORS 805.205, 805.105, 805.222 & 805.225
Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95; DMV 22-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 14-2008, f. & cert. ef. 6-23-08; DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0045
Group Registration Plates; Nonprofit Groups and Institutions of Higher Education; Approved Before August 12, 2015

(1) Effective August 12, 2015, chapter 806, Oregon Laws 2015, eliminated the creation of new group registration plates under ORS 805.205. This rule sets forth the eligibility requirements for current, active and inactive nonprofit groups and institutions of higher education (collectively referred to in this rule as "group") approved for the issuance of group registration plates before the effective date of the legislative act.

(2) To remain eligible for the issuance of group registration plates, a group described under section (1) of this rule must:

(a) Maintain documentation sufficient to demonstrate to DMV that:

(A) For a nonprofit group, the group meets the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code;

(B) For a group that is an institution of higher education, the group meets the definition in OAR 735-040-0040(5);

(C) For a group representing an institution of higher education, the group has written authorization from the institution to obtain higher education group plates on behalf of that institution;

(D) The group has established membership, officers and bylaws, and the group, or a chapter of the group is physically located in Oregon;

(E) The group is authorized to use any artwork, image, name, logo, mark, slogan, letter or word that appears on the group's plate; and

(F) The information submitted to DMV regarding the financial institution selected by the group for the deposit of plate surcharge amounts collected by DMV from the sale of the group's plate is up-to-date.

(b) Maintain and provide to DMV the current name, address and phone number of:

(A) Each group official, officer or director; and

(B) The person authorized by the group to act as the group's representative for purposes of the group's plate.

(c) Submit an Annual Statement of Continuing Eligibility (DMV Form 735-6942) to DMV certifying the group continues to meet the requirements for group plates under ORS 805.205 and DMV rules. The statement is due no later than 30 days after the date of receiving an annual renewal of eligibility letter from DMV.

(3) DMV may request a group to provide any information it considers necessary to verify the group is eligible for the issuance of group plates.

(4) DMV will withdraw the group's eligibility and cease to issue a group's plate if:

(a) The group fails to meet any requirement under section (2) of this rule;

(b) The group fails to provide any information requested by DMV;

(c) The group is not authorized to use an image, name, logo or design that appears on the group's plate;

(d) The group fails to submit an Annual Statement of Continuing Eligibility form as required under subsection (2)(c) of this rule; or

(e) The group fails to meet or comply with any other requirements for group plates under ORS 805.205 or DMV rule.

(5) DMV shall cease production of a group's plate if:

(a) DMV does not sell or issue renewal for 500 sets of the group's plate in any one year. For purposes of this subsection, the year begins on the first day of the month the group's plate was initially available for sale;

(b) The group ceases to exist or becomes ineligible for the issuance of special registration plates under ORS 805.205, or DMV rule; or

(c) DMV determines any artwork, image, name, logo, mark, slogan, letter or word that appears on the group's plate contains an expression of political opinion, religious belief, or violates any provision of the Oregon Vehicle Code, or DMV rule relating to registration plate content.

(6) Except for the reason described in subsection (5)(a) of this rule, when DMV ceases production of a group's plate it will destroy all remaining plate inventory.

(7) DMV will notify the group in writing if DMV withdraws the group's eligibility or ceases production or issuance of the group's plate.

(8) The group must notify DMV immediately if:

(a) There is a change in any information listed on the group's most recent application or annual eligibility statement; or

(b) The group ceases to exist or no longer meets the eligibility requirements for a nonprofit group under ORS 805.205 or DMV rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 805.205
Stats. Implemented: ORS 805.205
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0070
Plate Design

(1) Group plates shall:

(a) As provided under ORS 805.205, be from the "current regular issue," which as used here means:

(A) The plate design currently in use for most vehicles registered with DMV, whether or not that is the design used for all vehicle or registration types for which group plates may be issued; and

(B) Is the plate design chosen by the Oregon Transportation Commission from entries in the contest held pursuant to Chapter 572, Oregon Laws, 1987, but with the blue sky as provided by ORS 803.538.

(b) Contain plate configurations (identification assigned by DMV) and a word, words or initials naming or describing the group, and any other information determined by DMV, the design and placement of which shall be determined by DMV.

(2) All of the following apply to the word, words or initials used to name or describe the group. They shall:

(a) Be determined by DMV after consultation with the group;

(b) Contain only alphabetic (A–Z) or numeric (0–9) characters;

(c) Be distinctive so as to distinguish the group from similar groups and from any other registration or plate type;

(d) Conform to the restrictions in ORS 805.205;

(e) Not contain words prohibited under DMV's custom plate rules (OAR 735-046-0000 and 735-046-0010). DMV shall apply the same standards as used in the custom plate rules when determining whether to preclude a word(s) under this subsection or to take cancellation action on any plates that may have been issued;

(f) Be made part of the plate through the plate manufacturing process and not be in the form of a sticker or decal;

(g) Be of the same color as is used for the plate configuration;

(h) Be of a size and style and limited in number of characters, as determined by DMV, so as to:

(A) Fit in the available space;

(B) Be readable;

(C) Not interfere with other portions of the plate or make those other portions less distinguishable from a distance; and

(D) Be consistent in design with similar plates issued by DMV.

Stat. Auth.: ORS 184.616 & 805.205
Stats. Implemented: ORS 805.205
Hist.: DMV 2-1994, f. & cert. ef. 3-17-94

735-040-0080
Veterans' Groups Qualifications; Veterans' Recognition Registration Plates

(1) To become eligible for veterans' recognition registration plates issued under ORS 805.105, and this rule, a veterans' group must submit the following to DMV:

(a) A completed and signed Application for Approval of Veterans' Group Plates (DMV Form 7069), a copy of the group's bylaws, and documentation sufficient to DMV that:

(A) The group is a non-profit organization established to recognize, represent or support a branch of the Armed Forces of the United States; and

(B) The group, or a chapter of the group, is physically located in Oregon.

(b) The name, address and phone number of:

(A) Each group official, officer and director; and

(B) A person authorized by the group to act as the group's representative for purposes of veterans' recognition registration plates.

(c) The words, initials or copy of the service-related decal requested to appear on the group's plate. The group's representative must certify that the group is authorized to use the information or materials submitted under this subsection;

(d) If applicable, any requested restriction on the issuance of the group's plates as described under OAR 735-010-0090;

(e) An estimate of the number of plates the group will sell during the 12-month period following the date of application;

(f) Fees estimated by DMV to cover its costs to design and produce the requested plates; and

(g) The financial institution and account number selected by the group for the deposit of plate surcharge amounts collected by DMV from the sale of the group's veterans' recognition registration plates. If no information is provided, collected surcharge amounts will be deposited in the trust fund established under ORS 406.050 for paying the expenses of operating the Oregon Veterans' Home.

(2) DMV may request a veteran's group to provide any information it considers necessary to determine a group's eligibly for veterans' group registration plates or to verify the group is authorized to use requested words, initials or a service-related decal.

(3) DMV will not issue veterans' recognition registration plates to a group if it determines:

(a) The group does not meet the requirement for veterans' recognition plates under ORS 805.105 or this rule;

(b) The group's application is incomplete or if the application contains false information;

(c) The words, initials or service-related decal requested for use on the group's plates do not correctly name, identify or represent the group or are not authorized for use on veterans' recognition registration plates; or

(d) The authorized representative fails to provide information or documentation requested by DMV.

(4) DMV may stop issuing a group's veterans' recognition plates or withdraw a group's eligibility if the group:

(a) Is not authorized to use words, initials or a service-related decal previously approved for use on the group's veterans' recognition plates;

(b) Fails to file an annual statement of continuing eligibility as required under section (6) of this rule; or

(c) Fails to meet or comply with any other requirement for veterans' recognition plates under ORS 805.105 or this rule.

(5) DMV will notify the group upon DMV's approval or denial of the group's application, or upon withdrawal of group's eligibility.

(6) Once approved as an eligible group, the group must file an annual statement of continuing eligibility certifying the group continues to meet the requirements for a veteran's group.

(7) The group must notify DMV immediately if:

(a) There is a change in the name, address or phone number of a group official or the group's authorized representative listed on the group's most recent application or annual eligibility statement; or

(b) The group is dissolved or no longer meets the eligibility requirements for a veteran's group under this rule.

Stat. Auth.: ORS 184.616 184.619, 805.205 & 805.206

Stats. Implemented: ORS 805.205 & 805.206

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95; DMV 29-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; DMV 14-2004, f. & cert. ef. 6-24-04; DMV 22-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 14-2008, f. & cert. ef. 6-23-08

735-040-0090
Veterans' Recognition Registration Plates for Veterans' Groups; Restrictions on Issuance; Proof of Veteran Status

(1) Issuance of veterans' recognition registration plates may be restricted to certain persons as provided under Section (2), ORS 805.105(1)(c) and this rule. Conditions for restrictions are as follows:

(a) Restrictions on issuance of a particular veterans' recognition registration plate as requested by a veterans' group must relate to a person's service in the Armed Services of the United States. For example:

(A) DMV may approve a request to restrict issuance of a particular veterans' recognition registration plate to only veterans or to only those awarded a Purple Heart medal; and

(B) DMV will not approve a request to restrict veterans' recognition registration plate issuance to only veterans who are members of a particular group.

(b) A veteran's group requesting a restriction on plate issuance must do so on the initial Application for Approval of Veteran Group Plates. The group must describe the restriction(s) and the basis for the restriction;

(c) All restrictions must be approved by DMV.

(d) If a requested restriction is approved, DMV will consult the group in determining the criteria DMV will use in issuing veterans' recognition registration plates for that group.

(2) Veterans' recognition registration plates may not be issued as custom plates, or in conjunction with any other special registration or plate type.

(3) When a veterans' group approved by DMV or the Director of Veterans' Affairs requires proof of veteran status or proof of receipt of a service-related medal, or the applicant requests "Gold Star Family" registration plates, DMV will accept the following as proof of eligibility:

(a) For plates that include a decal depicting an insignia of a branch of the Armed Services:

(A) For military service 1950 or after, a US Department of Defense Form 214, Certificate of Release or Discharge from Active Duty (DD 214) or Correction to DD 214 Form (DD 215); or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services.

(b) For a veterans' group with a service-related restriction approved by DMV under OAR 735-040-0080:

(A) For military service 1950 or after, a DD 214 or DD 215; or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services; and

(C) A completed and signed Group Plate Eligibility Certification (DMV Form 735-6940) certifying the applicant is eligible to receive the group's plates.

(c) For plates that include a decal depicting a service-related medal:

(A) For military service 1950 or later, a DD 214 or DD 215; or

(B) For military service before 1950, a separation document or form issued by a branch or department of the US Armed Services; and

(C) A letter, award certificate or other document issued by the US Department of Defense showing the applicant is a recipient of the service-related medal.

(D) For plates displaying a gold star and the words "Gold Star Family," a completed and signed Group Plate Eligibility Certification (DMV Form 735-6940) certifying the applicant is a surviving family member. For purposes of this rule, a surviving family member includes a person who is a parent, sibling as defined under ORS 805.105, as amended by chapter 183, Oregon Laws 2015, spouse, partner in a domestic partnership or dependent of a person killed in action during an armed conflict while serving in the Armed Forces of the United States.

(4) A DD 214, DD 215 or separation form or document required under section (3) of this rule must have been issued under honorable conditions.

Stat. Auth.: ORS 184.616 184.619, 802.010, 805.105 & Ch.183, OL 2015
Stats. Implemented: ORS 805.105 & Ch. 183, OL 2015
Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95; DMV 22-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 14-2008, f. & cert. ef. 6-23-08; DMV 6-2015, f. 8-25-25, cert. ef. 10-1-15

735-040-0098
Non-profit Group Plate Surcharge

In addition to any other fee authorized by law:

(1) DMV will collect a surcharge of $2.50 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate.

(2) Notwithstanding section (1) of this rule, DMV will collect a surcharge of:

(a) $8 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate that recognizes fallen public safety officers.

(b) $7.50 per plate for each year of the registration period upon issuance and renewal of the Keep Kids Safe registration plate as described under ORS 805.205.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205
Stats. Implemented: ORS 805.205
Hist.: DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10; DMV 14-2010(Temp), f. 8-27-10, cert. ef. 9-1-10 thru 2-28-11; DMV 1-2011, f. & cert. ef. 1-28-11; DMV 8-2012, f. & cert. ef. 7-19-12

735-040-0110
Special Registration Plates; Nonprofit Groups, Qualifications; Application, Approval

(1) A nonprofit group that wishes to become eligible for a special registration plate issued under ORS 805.222 and 805.225, must submit the following to DMV:

(a) A completed and signed Application for Special Registration Plate (DMV Form 735-7076), a copy of the nonprofit group's bylaws, and documentation sufficient to demonstrate to DMV that:

(A) The nonprofit group meets the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code, including the nonprofit group's articles of incorporation and an IRS exemption determination letter, or similar IRS document granting the nonprofit group tax exempt status, and containing the nonprofit group's federal or IRS identification number; and

(B) The nonprofit group, or a chapter of the nonprofit group, is physically located in Oregon.

(b) The name, address, phone number and email address of current directors or officers of the nonprofit group, or other person authorized by the nonprofit group to act as the nonprofit group's representative for purposes of the nonprofit group's special registration plate.

(c) The nonprofit group's requested plate design, in an electronic format designated by the department. The design must comply with the plate design requirements specified in OAR 735-040-0125.

(d) For a nonprofit group representing an institution of higher education, written authorization from the institution stating the nonprofit group is eligible to obtain a special registration plate on behalf of that institution.

(e) A $5,000 preapproval fee to cover DMV's costs to review the group's application and requested plate design for compliance with ORS 805.222 to ORS 805.225, and DMV rules. The fee must be in the form of a check or money order payable to Oregon DMV.

(f) Any other information DMV considers necessary to determine the group is eligible for the issuance of a special registration plate.

(2) Applications and plate designs are reviewed in the order received by DMV.

(3) DMV will not issue special registration plates for a nonprofit group with a plate currently issued by DMV under ORS 805.205 and OAR 735-040-0045 until:

(a) The inventory of the nonprofit group's plate is depleted; or

(b) The nonprofit group reimburses DMV's plate manufacturing costs and any costs associated with the destruction of any remaining inventory of the nonprofit group's plate.

(4) DMV may deny a nonprofit group's eligibility for a special registration plate if:

(a) The nonprofit group's application is incomplete or contains false information;

(b) The nonprofit group is not authorized to use the requested plate design;

(c) The requested plate design does not meet the requirements specified in OAR 735-040-0125 (plate design); or

(d) The nonprofit group fails to provide any information requested by DMV, or fails to meet any requirement of the special registration plate program under ORS 805.222 to 805.225, or DMV rule.

(5) DMV will notify the nonprofit group in writing if:

(a) The nonprofit group's application or requested plate design requires additional information or modification.

(b) DMV approves the nonprofit group's application or requested plate design.

(c) DMV denies the nonprofit group's application or requested plate design.

(d) DMV withdraws the nonprofit group's eligibility or ceases production or issuance of the nonprofit group's plate.

(6) Upon DMV's approval of the nonprofit group's application and requested plate design, DMV will send the group 3,100 sequentially numbered, three-part DMV voucher forms for collection, as specified in ORS 805.225. Once collected, the group must submit at least 3,000 vouchers and all of the following to DMV:

(a) A fully executed licensing agreement between DMV and the nonprofit group for the use of any artwork, image, name, logo, mark, slogan, letter or word requested to appear on the nonprofit group's plate;

(b) A check or money order in an amount that includes:

(A) At least $120,000, with the total amount determined by the number of vouchers sold multiplied by the $40 surcharge fee; and

(B) DMV's anticipated costs of adding the nonprofit group's plate to the special registration plate program. When estimating DMV's anticipated costs, the department will include the remaining balance of any unexpended preapproval fees paid to DMV under section (1)(e) of this rule.

(c) The "DMV Copy" of each prepaid voucher form;

(d) Any unsold or voided voucher forms;

(e) A reconciliation report showing:

(A) The total number of vouchers sold, including the beginning and ending control numbers);

(B) The total number of vouchers that were lost, stolen, destroyed or voided and the control number of each;

(C) The total number of unsold vouchers; and

(D) Any additional vouchers ordered and received from DMV, including the beginning and ending control numbers;

(f) The name of the financial institution and account number designated by the nonprofit group for the deposit of plate surcharge fees (minus DMV's administrative costs) collected by DMV from the sale of the group's special registration plate; and

(g) The nonprofit group's final approved plate design, in an electronic format designated by the department.

(7) The fees submitted to DMV under subparagraph (6)(a)(A) of this rule are nonrefundable.

(8) An eligible nonprofit group must submit an Annual Statement of Continuing Eligibility (DMV Form 735-6942) to DMV certifying the group continues to meet the requirements for a special registration plate under ORS 805.222 to 805.225, and DMV rules. The statement is due no later than 30 days after the date of receiving an annual renewal of eligibility letter from DMV.

(9) The nonprofit group must notify DMV immediately if:

(a) There is a change in any information listed on the nonprofit group's application or most recent statement of continuing eligibility; or

(b) The nonprofit group ceases to exist, or no longer meets the eligibility requirements for a nonprofit group under ORS 805.222 to 805.225, or DMV rule.

(10) DMV may withdraw eligibility and cease to issue a nonprofit group's special registration plate if:

(a) The nonprofit group fails to provide any information requested by DMV;

(b) DMV determines the nonprofit group is not authorized to reproduce or use any artwork, image, name, logo, mark, slogan, letter or word previously approved for the nonprofit group's plate;

(c) The nonprofit group fails to submit an Annual Statement of Continuing Eligibility form as required under section (8) of this rule; or

(d) The nonprofit group fails to comply with any requirement for a special registration plate under ORS 805.222 to 805.225, or DMV rule.

(11) DMV shall cease production of a nonprofit group's plate if:

(a) DMV does not issue 2,000 sets of the nonprofit group's plate in any one year. For purposes of this subsection, the year begins on the day that the group's special registration plate is initially offered for sale;

(b) The group ceases to exist or becomes ineligible for the issuance of special registration plates under ORS 805.222 to 805.225, or DMV rule; or

(c) DMV determines any artwork, image, name, logo, mark, slogan, letter or word that appears on the group's plate contains an expression of political opinion or religious belief, or violates any provision of the Oregon Vehicle Code, or DMV rule relating to registration plate content.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.535, 805.222 & 805.225
Stats. Implemented: 805.222 & 805.225
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0115
Special Registration Plates; Institutions of Higher Education, Qualifications; Application, Approval

(1) An institution of higher education that wishes to become eligible for a special registration plate issued under ORS 805.222 and 805.225, must submit the following to DMV:

(a) A completed and signed Application for Special Registration Plate (DMV Form 735-7076) and documentation sufficient to DMV that:

(A) The institution is an "institution" as defined in OAR 735-040-0040, including a written certification on the institution's letterhead from the institution's president, chancellor, or chief executive officer stating that the institution meets the definition of an institution of higher education as defined in OAR 735-040-0040; and

(B) The institution is physically located in Oregon.

(b) The name, address, phone number and email address of current directors or officers of the institution, or other person authorized by the institution to act as the institution's representative for purposes of the institution's special registration plate.

(c) The institution's requested plate design, in an electronic format designated by the department. The design must comply with the plate design requirements specified in OAR 735-040-0125.

(d) A $5,000 preapproval fee to cover DMV's costs to review the institution's application and requested plate design for compliance with ORS 805.222 to 805.225, and DMV rules. The fee must be in the form of a check or money order payable to Oregon DMV.

(e) Any other information DMV considers necessary to determine the institution is eligible for the issuance of a special registration plate.

(2) Applications and plate designs are reviewed in the order received by DMV.

(3) DMV will not accept an application for special registration plates from an institution with a plate currently issued by DMV under ORS 805.205 and OAR 735-040-0045 until:

(a) The inventory of the institution's plate is depleted; or

(b) The institution reimburses DMV's plate manufacturing costs and any costs associated with the destruction of any remaining inventory of the institution's plate.

(4) DMV may deny an institution's eligibility for a special registration plate if:

(a) The institution's application is incomplete or contains false information;

(b) The institution is not authorized to use the requested plate design;

(c) The requested plate design does not meet the requirements specified in OAR 735-040-0125 (plate design); or

(d) The institution fails to provide any information requested by DMV, or fails to meet any requirement for a special registration plate under ORS 805.222 or 805.225, or DMV rule.

(5) DMV will notify the institution in writing if:

(a) The institution's application or requested plate design requires additional information or modification.

(b) DMV approves the institution's application or requested plate design.

(c) DMV denies the institution's application or requested plate design.

(d) DMV withdraws the institution's eligibility or ceases production or issuance of the institution's plate.

(6) Upon DMV's approval of the institution's application and requested plate design, DMV will send the institution 3,100 sequentially numbered, three-part DMV voucher forms for collection, as specified in ORS 805.225. Once collected, the institution must submit at least 3,000 vouchers and all of the following to DMV:

(a) A fully executed licensing agreement between DMV and the institution for the use of any artwork, image, name, logo, mark, slogan, letter or word requested to appear on the institution's plate;

(b) A check or money order in an amount that includes:

(A) At least $120,000, with the total amount determined by the number of vouchers sold multiplied by the $40 surcharge fee; and

(B) DMV's anticipated costs of adding the institution's plate to the special registration plate program. When estimating DMV's anticipated costs, the department will consider the balance of any unexpended preapproval fees provided under section (1)(d) of this rule.

(c) The "DMV Copy" of each prepaid voucher form;

(d) Any unsold or voided voucher forms;

(e) A reconciliation report showing:

(A) The total number of vouchers sold, including the beginning and ending control numbers;

(B) The total number of vouchers that were lost, stolen, destroyed or voided and the control number of each;

(C) The total number of unsold vouchers; and

(D) Any additional vouchers ordered and received from DMV, including the beginning and ending control numbers.

(f) The name of the financial institution and account number designated by the institution for the deposit of plate surcharge fees (minus DMV's administrative costs) collected by DMV from the sale of the institution's special registration plate; and

(g) The institution's final approved plate design, in an electronic format designated by the department.

(7) The fees submitted to DMV under subparagraph (6)(a)(A) of this rule are nonrefundable.

(8) An eligible institution must submit an Annual Statement of Continuing Eligibility (DMV Form 735-6942) to DMV certifying the institution continues to meet the requirements for a special registration plate under ORS 805.222 to 805.225, and DMV rules. The statement is due no later than 30 days after the date of receiving an annual renewal of eligibility letter from DMV.

(9) The institution must notify DMV immediately if:

(a) There is a change in any information listed on the institution's application or most recent statement of continuing eligibility; or

(b) The institution ceases to exist, or no longer meets the eligibility requirements for a nonprofit institution under ORS 805.222 to 805.225 or DMV rule.

(10) DMV may withdraw eligibility and cease to issue an institution's special registration plate if:

(a) The institution fails to provide any information requested by DMV;

(b) DMV determines the institution is not authorized to reproduce or use any artwork, image, name, logo, mark, slogan, letter or word previously approved for the institution's plate;

(c) The institution fails to submit an Annual Statement of Continuing Eligibility form as required under section (9) of this rule; or

(d) The institution fails to comply with any requirement for a special registration plate under ORS 805.222 to 805.225, or DMV rule.

(11) DMV shall cease production of an institution's plate if:

(a) DMV does not issue 2,000 sets of the institution's plate in any one year. For purposes of this subsection, the year begins on the day that the institution's special registration plate is initially offered for sale;

(b) The institution ceases to exist or becomes ineligible for the issuance of special registration plates under ORS 805.222 to 805.225, or DMV rule; or

(c) DMV determines any artwork, image, name, logo, mark, slogan, letter or word that appears on the institution's plate contains an expression of political opinion or religious belief, or violates any provision of the Oregon Vehicle Code, or DMV rule relating to registration plate content.

(12) Except for the reason described in subsection (11)(a) of this rule, when DMV ceases production of an institution's plate it will destroy all remaining plate inventory.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.535, 805.222 & 805.225
Stats. Implemented: 805.222 & 805.225
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0120
Special Registration Plates; Public Bodies, Qualifications; Application, Approval

(1) A public body that wishes to become eligible for a special registration plate issued under ORS 805.222 and 805.225 must submit the following to DMV:

(a) A completed and signed Application for Special Registration Plate (DMV Form 735-7076) and documentation sufficient to demonstrate to DMV that:

(A) The public body is a "public body" as defined in ORS 174.109 and OAR 735-040-0040, including a written certification on the public body's letterhead from an authorized representative of the public body stating the public body is authorized by law to apply for a special registration plate and to allocate the funds necessary to obtain a special registration plate. The public body must provide the citation of the applicable law in its certification.

(B) The public body, or an office of the public body, is physically located in Oregon.

(b) The name, address, phone number and email address of current directors or officers of the public body, or other person authorized by the public body to act as the public body's representative for purposes of the public body's special registration plate.

(c) The public body's requested plate design, in an electronic format designated by the department. The design must comply with the plate design requirements specified in OAR 735-040-0125.

(d) A $5,000 preapproval fee to cover DMV's costs to review, and approve or deny the public body's application and requested plate design for compliance with ORS 805.222, 805.225, and DMV rules. The fee must be in the form of a check or money order payable to Oregon DMV.

(e) Any other information DMV considers necessary to determine the public body is eligible for the issuance of a special registration plate.

(2) Applications and plate designs are reviewed in the order received by DMV.

(3) DMV may deny a public body's eligibility for a special registration plate if:

(a) The public body's application is incomplete or contains false information;

(b) The public body is not authorized to use the requested plate design;

(c) The requested plate design does not meet the requirements specified in OAR 735-040-0125 (plate design); or

(d) The public body fails to provide any information requested by DMV, or fails to meet any requirement for a special registration plate under ORS 805.222 to 805.225, or DMV rule.

(4) DMV will notify the public body in writing if:

(a) The public body's application or requested plate design requires additional information or modification;

(b) DMV approves the public body's application or requested plate design;

(c) DMV denies the public body's application or requested plate design; or

(d) DMV withdraws the public body's eligibility or ceases production or issuance of the public body's plate.

(5) Upon DMV's approval of the public body's application and requested plate design, DMV will send the public body 3,100 sequentially numbered, three-part DMV voucher forms for collection, as specified in ORS 805.225. Once collected, the public body must submit at least 3,000 vouchers and all of the following to DMV:

(a) A fully executed licensing agreement between and DMV and the public body, for the use of any artwork, image, name, logo, mark, slogan, letter or word requested to appear on the public body's plate;

(b) A check or money order in an amount that includes:

(A) At least $120,000, with the total amount determined by the number of vouchers sold multiplied by the $40 surcharge fee; and

(B) DMV's anticipated costs of adding the public body's plate to the special registration plate program. When estimating DMV's anticipated costs, the department will consider the balance of any unexpended preapproval fees provided under section (1)(d) of this rule.

(c) The "DMV Copy" of each prepaid voucher form;

(d) Any unsold or voided voucher forms;

(e) A reconciliation report showing:

(A) The total number of vouchers sold, including the beginning and ending control numbers;

(B) The total number of vouchers that were lost, stolen, destroyed or voided and the control number of each;

(C) The total number of unsold vouchers; and

(D) Any additional vouchers ordered and received from DMV, including the beginning and ending control numbers.

(f) The name of the financial institution and account number designated by the public body for the deposit of plate surcharge fees (minus DMV's administrative costs) collected by DMV from the sale of the public body's special registration plate; and

(g) The public body's final approved plate design, in an electronic format designated by the department.

(6) The fees submitted to DMV under subparagraph (5)(a)(A) of this rule are nonrefundable.

(7) An eligible public body must submit an Annual Statement of Continuing Eligibility (DMV Form 735-6942) to DMV, certifying the public body continues to meet the requirements for a special registration plate under ORS 805.222 to 805.225, and DMV rules. The statement is due no later than 30 days after the date of receiving an annual renewal of eligibility letter from DMV.

(8) The public body must notify DMV immediately if:

(a) There is a change in any information listed on the public body's application or most recent statement of continuing eligibility; or

(b) The public body ceases to exist, or no longer meets the eligibility requirements for a public body under ORS 805.222 to 805.225 or DMV rule.

(9) DMV may withdraw eligibility and cease to issue a public body's special registration plate if:

(a) The public body fails to provide any information requested by DMV;

(b) DMV determines the public body is not authorized to reproduce or use any artwork, image, name, logo, mark, slogan, letter or word previously approved for the public body's plate;

(c) The public body fails to submit an Annual Statement of Continuing Eligibility form as required under section (7) of this rule; or

(d) The public body fails to comply with any requirement for a special registration plate under ORS 805.222 to 805.225, or DMV rule.

(10) DMV shall cease production of a public body's plate if:

(a) DMV does not issue 2,000 sets of the public body's plate in any one year. For purposes of this subsection, the year begins on the day that the public body's special registration plate is initially offered for sale;

(b) The public body ceases to exist or becomes ineligible for the issuance of special registration plates under ORS 805.222 to 805.225 or DMV rule; or

(c) DMV determines any artwork, image, name, logo, mark, slogan, letter or word that appears on the public body's plate contains an expression of political opinion or religious belief, or violates any provision of the Oregon Vehicle Code, or DMV rule relating to registration plate content.

(11) Except for the reason described in subsection (10)(a) of this rule, when DMV ceases production of a public body's plate it will destroy all remaining plate inventory.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.535, 805.222 & 805.225
Stats. Implemented: 805.222 & 805.225
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0125
Special Registration Plate Design

This rule establishes the plate design requirements for a special registration plate issued by DMV under ORS 805.222 to 805.225, and Division 040 rules. In addition to any other requirement for registration plates, a special registration plate design:

(1) Must be developed by DMV in consultation with an eligible organization approved by DMV under OAR 735-040-0110, 735-040-0115, or 735-040-0120, whichever is applicable;

(2) Must be legible and clearly identifiable by law enforcement personnel as a State of Oregon vehicle registration plate. DMV will consult with Oregon law enforcement for compliance with this subsection;

(3) Must contain numbers, letters, colors and artwork that have been approved by DMV;

(4) May not conflict with, or be substantially similar or identical to any existing Oregon registration plate;

(5) Must comply with the requirements for plate size, form, arrangement and materials under ORS 803.535. The registration plate dimensions described in the example Plate Diagram (revised 07-16) are adopted by reference as Appendix A;

(6) May not infringe or violate a trademark, trade name, service mark, copyright or other proprietary right;

(7) May not contain an expression of political opinion or religious belief; and

(8) May not contain any word, combination of words or image that by reasonable standards is offensive, vulgar, or an expression of contempt for a specific race, religion, ethnicity, gender, sexual orientation, disability or that refers to a controlled substance, alcoholic beverage, illegal activity or substance, or promotes or endorses a product, brand or service provided for sale.

(9) DMV will approve or deny plate designs in accordance with OAR 735-040-0110, 735-040-0115 or 735-040-0120.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.535, 805.222 & 805.225
Stats. Implemented: 805.222 & 805.225
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

735-040-0130
Procedures for the Sale of Special Registration Plate Vouchers

This rule describes the procedures and requirements for an organization approved by DMV to sell special registration plate vouchers, as authorized by ORS 805.222 and 805.225. An organization must comply with all of the following:

(1) The organization may only sell vouchers issued by and obtained directly from DMV.

(2) Vouchers may not be sold for an amount other than the surcharge amount established under ORS 805.222.

(3) Each voucher sold must be legibly completed with the following information:

(a) The date of sale;

(b) The name, address, phone number and email address, if available, of the person purchasing the voucher (purchaser);

(c) The printed name and signature of the person who sells the voucher on behalf of the organization (seller); and

(d) The purchaser's signature acknowledging the purchaser has read and understands the terms and conditions printed on the voucher.

(e) If transferring the voucher:

(A) The name, address, phone number and email address, if available, of the person receiving the voucher; and

(B) The signature of the purchaser authorizing the transfer.

(4) Upon the sale of a voucher, the seller must provide the purchaser the "PURCHASER'S COPY" of the voucher.

(5) An organization is solely responsible for:

(a) The safety and security of all vouchers and fees collected by the organization from the sale of vouchers;

(b) Immediately reporting any lost or stolen vouchers to DMV;

(c) Marking "VOID" on any voucher that is damaged, altered, or that contains an illegible control number or an error made by the seller or purchaser during the sale;

(d) Responding to questions and resolving any disputes with purchasers regarding:

(A) The organization's voucher sales or the fees collected by the organization from the sale of the organization's vouchers;

(B) The organization's policy on refunding fees collected by the organization from the sale of the organization's vouchers; and

(C) The status or progress of the organization's effort to obtain a special registration plate.

(6) The organization must return all void and unsold vouchers to DMV when:

(a) It submits all collected vouchers, required fees and DMV's anticipated costs of adding the organization's plate to the special registration plate program, as required under ORS 805.225, and as described in OAR 735-040-0110, 735-040-0115 or 735-040-0120, whichever is applicable;

(b) The organization notifies DMV that the organization has abandoned its effort to collect vouchers and obtain a special registration plate; or

(c) DMV determines the organization is no longer eligible for the special registration plate program.

(7) An organization may obtain additional vouchers by contacting DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.535, 805.222 & 805.225
Stats. Implemented: 805.222 & 805.225
Hist.: DVM 3-2016, f. 6-22-16, cert. ef. 7-1-16

DIVISION 42

FLEETS

735-042-0000
Eligibility for Fleet Registration

(1) Fleet registration is as provided in ORS 805.120.

(2) As used in OAR 735-042-0000 through 735-042-0040, "fleet operator" means the person, or their designee, who applies for fleet registration.

(3) To be eligible for and to continue to operate vehicles under fleet registration, the following requirements must be met and maintained:

(a) The fleet must consist of at least 50 eligible vehicles;

(b) The vehicles must be titled either in the name of the same registered owner or in the name of a subsidiary company of a single parent company; and

(c) The vehicles must be housed and dispatched from a location in Oregon and must be primarily operated on an intrastate basis within Oregon.

(4) Vehicles eligible for fleet registration include:

(a) Vehicles commonly known as light trailers, passenger vehicles and light trucks (such as pickups and vans) having a loaded weight of 8,000 pounds or less;

(b) Motor trucks, truck tractors and other vehicles required to establish a registration weight under ORS 803.430, except farm-registered vehicles;

(c) Commercial buses and like vehicles which would be commercial buses if used for compensation; and

(d) Fixed load vehicles.

(5) Vehicles with registration that restricts their use or allows special registration provisions are not eligible for fleet registration. For example, school buses or school activity vehicles are not eligible.

Stat. Auth.: ORS 802.010, 803, 805.120 & Ch. 76 & 723, OL 1989
Stats. Implemented: ORS 805.120
Hist.: MV 7-1986, f. & ef. 4-16-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0800; MV 47-1989, f. & cert. ef. 11-16-89; MV 57-1989, f. 12-29-89, cert. ef. 1-1-90

735-042-0010
Fleet Operator Responsibilities

(1) Fleet registration plates shall be surrendered to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) within 30 days of the date:

(a) A vehicle becomes ineligible for fleet registration; or

(b) A vehicle is withdrawn from a fleet.

(2) The fleet operator may certify that a plate has been lost or destroyed instead of surrendering a plate under section (1) of this rule.

(3) The fleet operator is responsible for registration fees until a vehicle is ineligible or withdrawn from the fleet and:

(a) The registration plate is received by DMV; or

(b) DMV receives a certification that the registration plate is lost or destroyed.

(4) When a new fleet qualifies for this program, the fleet operator shall:

(a) Turn in the plates currently on the vehicles to DMV; or

(b) Destroy the plates and provide DMV with a certification listing the plates that were destroyed.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.415, 803.420 & 805.120
Stats. Implemented: ORS 805.120
Hist.: MV 7-1986, f. & ef. 4-16-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0810; MV 47-1989, f. & cert. ef. 11-16-89; DMV 5-2006, f. & cert. ef. 5-25-06

735-042-0020
Application for and Issuance of Fleet Registration

(1) An applicant for fleet vehicle registration must submit the following to DMV for each fleet vehicle to be registered:

(a) A completed and signed DMV application list for fleet vehicle registration and applicable fees;

(b) The name and address of the fleet operator, the billing address and the name and phone number for the person in charge of fleet registration;

(c) If applicable, the current registration plate number, registration expiration date, vehicle identification number (VIN) and title number;

(d) If the applicant requests to have the entire fleet's registration expire at the same time, the requested month of expiration;

(e) A service fee of $2 for each vehicle registered or added to an existing fleet and a $1 fee for each registration renewal; and

(f) Any other requirements for vehicle registration including applicable fees, proof of insurance and proof of emissions compliance.

(2) Registration expiration dates for fleet vehicles will be recorded on DMV records. Expiration dates are not included on registration plates or registration cards.

(3) DMV will assign a unique registration account number to each vehicle fleet registered in Oregon.

(4) Fleet plates are issued with a "PF" prefix, and may not be transferred to another vehicle.

(5) Except as provided in OAR 735-042-0030, fleet vehicles eligible for quarterly registration will be registered on an annual basis. Vehicles subject to biennial registration will be registered for a two-year period.

(6) Approximately 60 days before the registration on a fleet vehicle is due to expire, DMV will provide a billing list for each vehicle that needs its registration renewed to the person in charge of fleet registration. Renewal will be issued upon return receipt of a completed signed billing list that includes applicable fees, proof of insurance and proof of emissions compliance, if required.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.415, 803.420 & 805.120
Stats. Implemented: ORS 805.120
Hist.: MV 7-1986, f. & ef. 4-16-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0820; MV 22-1988, f. 6-29-88. cert. ef. 7-1-88; MV 47-1989, f. & cert. ef. 11-16-89; MV 57-1989, f. 12-29-89, cert. ef. 1-1-90; DMV 5-2006, f. & cert. ef. 5-25-06

735-042-0030
Fleet Registering for One Month Expiration

(1) A fleet operator may request that the registration of all vehicles in the fleet expire in the same month. The month chosen may be any month of the year:

(a) The request shall be in writing and shall be signed by the fleet operator;

(b) When a request is received, all renewal fees due shall be paid before the conversion process can begin; and

(c) The request to adjust the registration and the payment of all renewal fees due shall be submitted at least 120 days prior to the end of the month chosen.

(2) All expiration dates will be moved forward.

(3) There will be no refunds or credits during the conversion process.

(4) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall prorate all registration fees consistent with section (11) of this rule to reflect the expiration changes.

(5) Adjustment of a vehicle's registration expiration to a future month shall be considered to be a renewal of that vehicle's registration and all applicable registration renewal requirements shall be met by the fleet operator.

(6) A special billing shall be produced for the fleet showing the prorated fee needed to adjust the registration expirations of the fleet's vehicles to the chosen month. This special billing shall be returned to DMV with the fees within 45 days of the date the special billing was mailed or delivered to the fleet operator.

(7) If the 120-day requirement in subsection (1)(c) of this rule is not met, DMV may choose to accept the request if the remaining provisions of section (1) of this rule are met and if there is sufficient time to complete the conversion process prior to the end of the month chosen.

(8) If the 45-day requirement in section (6) of this rule is not met, DMV may choose to continue with the conversion if there is sufficient time to complete the conversion process prior to the end of the month chosen. Otherwise, the conversion process shall be abandoned and the fleet-registered vehicles shall retain the currently assigned expirations.

(9) Vehicles added to a fleet during or after the conversion process shall be assigned a registration expiration month that corresponds with that of the other vehicles in the fleet.

(10) When DMV changes or assigns an expiration month to correspond with that of other vehicles in the fleet, the registration fees shall be prorated according to section (11) of this rule.

(11) When registration fees are prorated under section (4) or (10) of this rule, the fee shall be rounded down to the nearest $.25. For example, $10.79 would be rounded down to $10.75 and $10.23 would be rounded down to $10.

Stat. Auth.: ORS 802.010, 803, 805.120 & Ch. 76 & 723, OL 1989
Stats. Implemented: ORS 805.120
Hist.: MV 7-1986, f. & ef. 4-16-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0830; MV 47-1989, f. & cert. ef. 11-16-89

735-042-0040
Fleet Cancellation

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may cancel the registration of any or all vehicles in a fleet or declare the fleet ineligible for fleet registration if DMV determines the fleet operator has:

(a) Failed to maintain a fleet size of 50 vehicles for a consecutive 60-day period;

(b) Permitted the registration issued to be used on a vehicle other than the one to which it was assigned;

(c) Failed to pay renewal fees or meet any applicable registration renewal requirements by the last day of the month of expiration;

(d) Failed to pay, or attempted to avoid payment of any fees required by statute or rule for fleet registration, which includes payment of registration fees in lieu of surrendering plates for vehicles removed from the fleet;

(e) Falsely certified to DMV the disposition of plates required by OAR 735-042-0010(2) or (4); or

(f) Failed to surrender plates or a certification as to the disposition of the plates to DMV within 30 days of the date any vehicle became ineligible or was no longer operated by the fleet.

(2) Fleets whose registrations are cancelled shall be eligible for a hearing as outlined by ORS 183.310, 183.550, and 809.100.

Stat. Auth.: ORS 802.010, 803, 805.120 & Ch. 76 & 723, OL 1989
Stats. Implemented: ORS 805.120
Hist.: MV 7-1986, f. & ef. 4-16-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0840; MV 47-1989, f. & cert. ef. 11-16-89

735-042-0050
Allocated Fleets — General Provisions

(1) "Allocated fleet" means a fleet of vehicles operated for hire in Oregon and other jurisdictions, a portion of which are registered in each jurisdiction on a formula specified in an agreement reached pursuant to ORS 802.500(1)(h).

(2) A fleet of vehicles operated for hire, commonly referred to an "rental" vehicles, may be registered as an allocated fleet as provided in this rule and agreements between the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) and other jurisdictions reached pursuant to ORS 802.500(1)(h).

(3) The basis for determining the number of vehicles in the fleet which must be registered in Oregon shall be as specified in the agreement reached under ORS 802.500(1)(h) and under which the fleet operator seeks to register vehicles in Oregon.

(4) To be eligible for allocated fleet registration, the fleet operator shall complete a written agreement with DMV. In the agreement, the fleet operator shall agree to:

(a) Register in Oregon the number of vehicles required to be registered in Oregon based on the agreement reached pursuant to ORS 802.500(1)(h);

(b) Keep records, appropriate to the type of fleet and basis for allocation, sufficient to justify the number of vehicles registered in each jurisdiction and show that the proper fees have been paid to each;

(c) Make available to DMV or its designee the records required to be kept under subsection (4)(b) of this rule for purposes of auditing the accuracy of the fees paid and number of vehicles registered. Such records shall be provided to DMV or its designee at the location specified by DMV, or the fleet operator shall pay the reasonable costs of an audit at the operator's home office by a duly appointed representative of DMV;

(d) Keep the records required to be kept under subsection (4)(b) of this rule for a period of two years following the expiration of any registration obtained; and

(e) Provide to DMV certified written statements at intervals specified in the agreement, regarding the number of vehicles in the fleet, the number of vehicles registered in Oregon and a summary of the data used to calculate the number of vehicles to be registered in Oregon.

(5) If DMV determines that the fleet operator did not register enough of the vehicles of the fleet in Oregon, DMV may deny privileges to the fleet until the additional vehicles are registered. Such denial of privileges may include, but shall not be limited to, withdrawal of registration reciprocity for vehicles of the fleet registered in other jurisdictions.

Stat. Auth.: ORS 184.616 & 803.410
Stats. Implemented: ORS 802.500, 803.305, 803.410 & 803.415
Hist.: MV 1-1994, f. & cert. ef. 1-19-94

735-042-0060
Allocated Fleets — Light Trailers

(1) An allocated fleet of trailers operated for hire may be registered as provided in this rule. To qualify for registration under this rule:

(a) The owner of the fleet shall have an agreement with the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) as provided in OAR 735-042-0050;

(b) A trailer shall be part of a fleet of two or more trailers operated for hire in this state and other jurisdictions by an individual, association or group of owners; and

(c) The trailers in the fleet shall be identifiable (e.g., through markings or lettering on the trailer) as being operated as a fleet.

(2) None of the trailers in the fleet may be operated on the highways of this state with a loaded weight of more than 8,000 pounds, whether or not a particular trailer of the fleet is registered under this rule.

(3) Trailers registered as a fleet under this rule may be registered under annual registration as provided in ORS 803.415, or under five-year registration as provided in this rule. As used in this rule, "five-year registration" refers to for-hire trailer registration which is valid for a maximum of five years.

(4) Trailers registered under annual registration shall be issued registration indicia (a registration card and a registration plate) reflecting an annual expiration date of December 31st of each year. Trailers initially registered after December 10 shall have an expiration of December 31st of the following year.

(5) All five-year registrations shall expire December 31, 1995, and at five-year intervals thereafter. The expiration of a trailer registered under five-year registration shall be on December 31 in the next expiration year. For example, a trailer registered under five-year registration on August 15, 1993, shall expire December 31, 1995, and a trailer registered in 1996 shall expire December 31, 2000.

(6) Trailers registered under five-year registration shall be issued registration indicia reflecting an expiration date of December 31 of the next five-year expiration year.

(7) The fee for five-year registration shall be the fee for annual registration of for-hire trailers as provide in ORS 803.420 multiplied by the number of calendar years or portion thereof remaining in the five-year registration period in which the trailer is registered. The fee for five-year registration shall be paid upon initial registration, except as provided in section (8) of this rule for payment on an annual basis. No registration fees for trailers registered under this rule shall be prorated or otherwise reduced due to any trailer being registered for less than a full registration period. If paid on an annual basis, the annual fee for five-year registration shall be the same as the annual fee as provided in ORS 803.420 for trailers operated for-hire.

(8) To qualify for five-year registration on an annual fee basis, the owner of the fleet shall enter into a written agreement with DMV, in which the owner agrees to:

(a) Pay the annual fee for the first year of registration in advance;

(b) Comply with the security requirements under section (9) of this rule;

(c) Pay, by December 31 of each year, the annual registration fee for the next year of five-year registration; and

(d) Return to DMV any unexpired registration indicia issued for any trailer withdrawn from the fleet or for which registration fees are otherwise not paid.

(9) The owner of trailers registered under five-year registration on an annual fee basis shall, upon application for five-year registration, file with DMV sufficient security to ensure that the remaining annual registration fees for every trailer issued five-year registration shall be paid.

(10) The security filing under section (9) of this rule shall be:

(a) An irrevocable letter of credit through the end of the current five-year registration period, ensuring that sufficient funds are on deposit to pay the balance of the registration fees for all of the trailers so registered; or

(b) A surety bond in an amount sufficient to pay the balance of registration fees for all trailers so registered.

(11) DMV shall cancel the registration of any trailers registered under five-year registration on an annual fee basis if the owner fails to pay the registration fee as provided in subsection (8)(c) of this rule. Such cancellation may include withdrawal of registration reciprocity for vehicles of the fleet registered in other jurisdictions.

Stat. Auth.: ORS 184.616 & 803.410
Stats. Implemented: ORS 802.500, 803.305, 803.410 & 803.415
Hist.: MV 1-1994, f. & cert. ef. 1-19-94

DIVISION 46

SPECIAL PLATES

735-046-0000
Definitions

The following definitions apply to OAR 735-046-0000 through 735-046-0050:

(1) "Current Issue" means any registration plate type, plate background or plate series approved by DMV for issuance.

(2) "Current use" means any registration plate type, plate background or plate series that is no longer issued, but is approved for registration renewal or for special interest registration, or is a permanent registration plate. Examples of current use registration plates include:

(a) Passenger vehicle plates issued 1961 or later; and

(b) Motorcycle or moped plates issued 1968 or later.

(3) "Custom plates" mean customized registration plates authorized under ORS 805.240.

(4) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(5) "Plate choice" means the numbers or letters, or combination of numbers and letters (characters), requested by an applicant for custom plates. For purposes of custom plates, the letter "O" and the number "zero" are identical. A plate choice does not include a plate's background, design, method of validation, or any other information DMV may require.

(6) "Plate configuration" means a unique combination of numbers or letters that have been or may be assigned to registration plates.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.103, 805.200 & 805.220
Stats. Implemented: ORS 803.535, 805.103, 805.200, 805.220, 805.240 & 805.242
Hist.: MV 1-1981, f. & ef. 2-5-81; MV 1-1983, f. & ef. 1-28-83; MV 9-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0058; MV 25-1988, f. & cert. ef. 10-3-88; MV 48-1989, f. & cert. ef. 11-16-89; DMV 9-1994, f. & cert. ef. 9-30-94; DMV 8-1997, f. & cert. ef. 10-16-97; DMV 15-2008, f. & cert. ef. 6-23-08; DMV 22-2008, f. & cert. ef. 9-11-08; DMV 3-2014, f. & cert. ef. 5-19-14

735-046-0010
Custom Plates: Application and Standards

(1) A person who wishes to obtain custom plates must submit an application for custom plates and all applicable fees to DMV. Custom plate choices:

(a) May not be reserved in advance of application and payment of required fees; and

(b) Are approved and assigned by DMV on a first-come, first-served basis. When two or more applications requesting an identical plate choice are received, DMV will consider for approval the first one received with the required fees, without regard to whether the first application received is an original application for

a custom plate or an application for renewal of a custom plate that has been expired for more than 30 days. "Application," as used in this subsection, may include application by phone, provided DMV is in possession of the required fees.

(2) Except as provided for in OAR 735-046-0020, an applicant for custom plates must qualify for Oregon title and registration for the vehicle listed on the custom plate application.

(3) A custom plate choice is assigned to a vehicle at the time the plate is issued by DMV.

(4) A custom plate choice must:

(a) Be compatible with DMV's computer system;

(b) Not be identical to any plate configuration reserved for:

(A) Qualified Congressional Medal of Honor recipients;

(B) Current Oregon office holders;

(C) An Honorary Consul as defined under Oregon Laws 2009, chapter 621; or

(D) The Governor, unless the custom plate is being issued under the provisions of OAR 735-046-0050;

(c) Not begin with the letters CMH, MOH, ORE, SEN, REP, USS, or USR and be followed by numbers;

(d) Be alphabetic or numeric characters, or alphanumeric characters. A plate choice may not include punctuation or symbols other than a dash or space;

(e) Include at least one alphabetic or numeric character;

(f) Be limited to no more than six alphabetic characters, numeric characters, spaces or dashes, except that a seventh character may be a space or dash;

(g) Except as provided in section (5) of this rule, not be identical to any other plate configuration in current use. The use of a space or a dash within a plate choice is not considered when determining whether the plate is identical to another plate configuration.

(5) In addition to other provisions of this rule, all of the following apply to approval of a plate choice that is identical to a plate configuration that is in current use:

(a) DMV may approve a plate choice that conflicts with a plate configuration currently in use for motor vehicles registered under ORS 803.420(1) (i.e., passenger plated vehicles) if:

(A) The specific plate configuration requested has previously been issued and is not still in inventory or reserved for future issuance;

(B) The previously issued plates bearing the plate choice are surrendered to DMV with the custom plate request, or are no longer in circulation. If there is any question about such plates being in circulation, it is the applicant's responsibility to satisfy DMV that the plates have been destroyed, surrendered to DMV or another jurisdiction, or are not available for use on a vehicle; and

(C) The plate choice is to be assigned to a vehicle that qualifies for registration under ORS 803.420(1).

(b) For motor vehicles other than those registered under ORS 803.420(1), specifically, vehicles that are not passenger plated vehicles, DMV may approve a plate choice that is identical to a plate configuration that is in current use if:

(A) The vehicle to which the custom plates are to be issued is of a different type than the vehicle to which the plates bearing the identical plate configuration are in current use or could be issued. For example, a plate choice that is identical to a disabled veteran plate configuration (for example D00001) will not be assigned to a custom plate issued to either a passenger vehicle or motor home. A plate choice that is identical to a motor home plate configuration (for example H00001) will not be assigned to a custom plate issued to a motor home but can be assigned to a custom plate issued to a passenger vehicle;

(B) The plate choice requested is not currently assigned to a registration plate; and

(C) The plate choice requested will not be assigned to a future plate series.

(6) DMV will not approve a custom plate choice, including plate choices that would do so by means of foreign or slang words or phrases, by use of phonetic, numeric or reverse spelling, or by being viewed in mirror image, that:

(a) Would have the effect of alarming, threatening, offending or misleading a reasonable person. Such choices may include, but are not limited to, combinations of letters, numbers or both that:

(A) Refer to intimate bodily parts or to sexual or excretory acts or functions;

(B) Refer in an alarming or offensive manner to a person or class of persons on the basis of race, color, gender, ethnic heritage, national origin, or other characteristic;

(C) Suggest that the vehicle to which the custom plate is issued is an official vehicle of a public agency or official, when it is in fact not such a vehicle; or

(D) Refer to illegal acts.

(b) Refer to alcoholic beverages, or controlled substances or paraphernalia used in the consumption thereof by combinations of letters, numbers or both.

(7) DMV may use any reliable lexicological source to determine the meaning of any word, symbol or phrase.

(8) When reviewing a plate choice for approval, DMV need not consider the applicant's subjective intent or declared meaning.

(9) DMV will approve the transfer of registration plates that are not from a current issue of plates as custom plates under the provisions of ORS 805.242. All of the following apply to such a transfer:

(a) For vehicles that require two registration plates, the applicant must have two registration plates available for transfer to the vehicle;

(b) The registration plates being transferred must not be so old, damaged, mutilated or otherwise rendered illegible as to be not useful for purposes of identification;

(c) The registration plates being transferred must be from a series in current use;

(d) The registration plates may only be transferred to a vehicle type that is otherwise eligible for custom plates; and

(e) The registration plates may only be transferred to a vehicle of the same registration type to which they were originally issued (e.g., passenger vehicle to passenger vehicle).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.103, 805.200, 805.205 & 805.220

Stats. Implemented: ORS 803.420, 803.535, 805.103, 805.200, 805.220, 805.240, 805.242 & 805.250

Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 48-1989, f. & cert. ef. 11-16-89; DMV 9-1994, f. & cert. ef. 9-30-94; DMV 8-1997, f. & cert. ef. 10-16-97; DMV 23-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 15-2008, f. & cert. ef. 6-23-08; DMV 22-2008, f. & cert. ef. 9-11-08; DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10

735-046-0020

Custom Plates — Application for Plates as a Gift

(1) DMV shall allow persons other than the owner of a vehicle to apply for a custom plate choice when:

(a) The plates are to be provided to the vehicle owner as a gift;

(b) The vehicle to which the plates are to be assigned is currently titled in Oregon; and

(c) The plates are to be given to the vehicle owner no more than 120 days from the date of application.

(2) To obtain approval for a custom plate choice, the person who is giving the gift shall make application to DMV. All of the following must be provided:

(a) Application for custom plates including the plate choice;

(b) Custom plate fees;

(c) Any applicable registration and plate manufacturing fees;

(d) Name and address of the applicant (person giving the gift);

(e) Name and address of the vehicle owner (person to receive the plates);

(f) Date plates are needed; and

(g) At least one vehicle identifier (current plate number or vehicle identification number) of the vehicle to which the plates are to be assigned.

(3) If the custom plate choice is approved DMV shall provide the plates to the applicant together with an application for registration and a letter that shall explain registration requirements.

The applicant shall provide the application and letter to the vehicle owner along with the plates. DMV shall not at that time provide:

(a) A vehicle registration card;

(b) Registration stickers for the plates; or

(c) Any other documentation that would assign the plates to a particular vehicle or authorize the use of a vehicle over the highways, with such plates.

(4) To use the plates for operation of a vehicle, the vehicle owner shall make application for registration to DMV, and comply with requirements for registration (other than any fees previously submitted). In making application the vehicle owner shall submit a completed and signed application for registration.

(5) Upon receipt of all registration requirements, DMV shall issue a registration card and registration stickers for use on the vehicle.

(6) If the vehicle owner fails to make application for registration of the vehicle with the custom plate choice, within 120 days from the date the plate(s) are released by DMV:

(a) The plate choice shall become available for approval for another applicant, should DMV receive such a request; and

(b) The vehicle owner shall return the plate(s) to DMV.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 805.240
Hist.: MV 25-1988, f. & cert. ef. 10-3-88; DMV 8-1997, f. & cert. ef. 10-16-97

735-046-0030
Custom Plates — Issuance, Renewal and Transfer

(1) Custom plates shall only be issued to vehicles of the types described in this section. Vehicle types for which custom plates may be issued include:

(a) Motor vehicles that would be registered under ORS 803.420(1) if special registration plates were not requested (for example, passenger vehicles such as cars or lightweight trucks);

(b) Travel trailers;

(c) Campers;

(d) Motor homes;

(e) Mopeds; and

(f) Motorcycles.

(2) Custom plates shall not be approved for vehicles registered under registration provisions for which issuance of a special registration plate is required, or for which DMV routinely issues special plates (for example, disabled veteran or farm).

(3) Vehicles issued custom plates are subject to the same requirements as they would be if they did not have special plates (i.e., mandatory insurance or Department of Environmental Quality inspection) as specified by rule or law.

(4) If the custom plate is not renewed within 30 days from the expiration of the vehicle registration period, or if the plate(s) is surrendered to DMV, the custom plate choice shall be considered available for approval and assignment on a first come, first served basis, upon application by any applicant. The owner of the vehicle to which the custom plate was originally issued may again be assigned that plate choice if:

(a) A custom plate with that plate choice has not already been issued for use on another applicant's vehicle;

(b) The applicant otherwise complies with requirements for registration of the vehicle;

(c) DMV approves the plate choice for use; and

(d) There is no application pending for the plate choice by another applicant, as established by OAR 735-046-0010(2).

(5) Custom plates are assigned to specific vehicles and shall remain with that vehicle except as otherwise provided in this rule or by statute. All of the following apply to custom plate transfers:

(a) When a vehicle bearing a custom plate is sold, assigned or otherwise transferred, and the owner (seller) chooses to retain the custom plate choice for transfer to another vehicle, it shall be the responsibility of the owner (seller) to:

(A) Remove the plates from the vehicle prior to the sale or transfer, or make arrangements with the purchaser to remove the plates from that vehicle; and

(B) Comply with requirements for transfer of the plates or plate choice to another vehicle, including making application to DMV and paying any required fees.

(b) If the owner (seller) does not retain the plates prior to the sale or transfer, and is unable to make arrangements for removal of the plates from that vehicle, the plates and that plate choice shall remain assigned to that vehicle except as otherwise provided in rule or statute.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 805.240
Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 48-1989, f. & cert. ef. 11-16-89; DMV 8-1997, f. & cert. ef. 10-16-97

735-046-0040
Custom Plates — Review of Custom Plate and Recall

(1) DMV may at any time review a custom plate to determine compliance with OAR 735-046-0000 through 735-046-0050 and any written department policy.

(2) DMV shall recall a custom plate without regard to the date first issued if DMV determines that it violates any administrative rule or written department policy.

(3) Upon notification that a custom plate is being recalled, the vehicle owner:

(a) Shall surrender the plate(s) to DMV within 10 days; and

(b) May apply for approval of a new custom plate choice without payment of an additional fee.

(4) If the vehicle owner of the recalled plate does not apply for a new custom plate or the requested plate choice is not approved, DMV shall issue a regular registration plate and refund the customized registration plate fee applicable for the current vehicle registration period.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 805.240
Hist.: MV 25-1988, f. & cert. ef. 10-3-88; DMV 9-1994, f. & cert. ef. 9-30-94; DMV 8-1997, f. & cert. ef. 10-16-97

735-046-0050
Congressional Medal of Honor, Elected Official and Consular Corps Plates

(1) Requirements and Qualifications. In addition to all other requirements for registration, an applicant for Congressional Medal of Honor plates, elected official plates or consular corps plates must submit to DMV an application for registration and all applicable fees, including any fee required for the custom plate requested. At the time of application, the applicant must be the registered owner of the vehicle listed on the application and:

(a) For Congressional Medal of Honor recipients, meet the qualifications for issuance of Congressional Medal of Honor plates under ORS 805.103 and this rule;

(b) For elected officials, meet the qualifications of ORS 805.220, and hold the office specified on the application. DMV may contact the Secretary of State to verify compliance with this subsection;

(c) For consular corps plates, provide proof to DMV that the applicant is appointed by a foreign government as an honorary consul and is acting in that capacity. Proof under this subsection is a copy of the applicant's current Consular Identification Card issued by the U.S. Department of State, Office of Protocol.

(2) For purposes of section (1) of this rule, the annual custom plate fee set forth in ORS 805.250(2)(a) for issuance or renewal of Congressional Medal of Honor plates is waived and is not a required fee.

(3) Elected official plates are assigned to a specific vehicle and — if requested by the applicant — are issued in addition to the regular registration plates issued to the vehicle. The fee for an elected official plate issued in addition to a regular series plate is the plate manufacturing fee established under ORS 803.570. Elected official plates may be transferred to another vehicle if:

(a) The vehicle to which the plates are to be transferred is registered in the name of the elected official who qualifies for the particular plate configuration; and

(b) The applicant submits to DMV a completed application that identifies the vehicle to which the elected official plates are to be assigned.

(4) Consular corps plates are assigned to a specific vehicle and may only be transferred to another vehicle under section (5) of this rule.

(5) Plate Transfer. In addition to all other requirements for transferring registration plates, an applicant for a plate transfer must submit to DMV a completed, signed application to transfer registration plates and all applicable fees. At the time of transfer, the applicant must be the registered owner of the vehicle listed on the application. There is no plate transfer fee for elected official plates.

(6) Plate Configurations. The following plate configurations are reserved as specified:

(a) For Congressional Medal of Honor recipients: Except as provided in paragraph (B) of this subsection, the applicant may choose the letter combination "MOH" or "CMH," which will be followed by a single number from 1 to 9, to be designated by DMV;

(A) A total of 18 pairs of Congressional Medal of Honor plates are reserved for issuance to qualified Congressional Medal of Honor recipients.

(B) When a Congressional Medal of Honor plate configuration is issued, it will be removed from the list of available plates and will not be issued again. For example, after plate configuration "CMH 1" is issued, that configuration is no longer available. The next qualified applicant is issued the next available plate number in numeric order.

(b) For elected officials:

(A) Governor: "GOVERNOR 1";

(B) Secretary of State: "SECRETARY OF STATE 2";

(C) State Treasurer: "STATE TREASURER 3";

(D) President of the Senate: "PRESIDENT OF THE SENATE 4";

(E) President pro tempore of the Senate: "SENATE PRESIDENT PRO TEMPORE 4A";

(F) Speaker of the House of Representatives: "SPEAKER OF THE HOUSE OF REPRESENTATIVES 5";

(G) Speaker pro tempore of the House: "SPEAKER OF THE HOUSE PRO TEMPORE 5A";

(H) State Senators: "STATE SENATOR" followed by the applicable Senate district number;

(I) State Representatives: "STATE REP." followed by the applicable House district number;

(J) U.S. Senator: "U.S. SENATOR" followed by the number 1 or 2, depending on seniority;

(K) U.S. Representative: "U.S. REP." followed by the House District number; and

(c) For consular corps plates: "OFFICAL CONSULAR CORPS" followed by a number assigned by DMV.

(7) In addition to the elected official plate for the Governor under subsection (3)(b) of this rule, DMV will issue regular series plates to the Governor upon request from the Governor's office. The fee for a regular series plate issued under this section is the plate manufacturing fee established under ORS 803.570.

(8) The plates must be removed from the vehicle to which they are assigned when the person no longer qualifies for elected official plates or consular corps plates because the term of office or appointment expires, or the person otherwise ceases to act in the official capacity required to qualify for the plates. After removing the plates from the vehicle, the person may surrender the plates to DMV or retain the plates as a souvenir.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.103, 805.200, 805.205 & 805.220

Stats. Implemented: ORS 803.420, 803.530, 803.535, 805.103, 805.200, 805.220, 805.240, 805.242 & 805.250

Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 13-1992, f. & cert. ef. 10-16-92; DMV 23-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 15-2008, f. & cert. ef. 6-23-08; DMV 22-2008, f. & cert. ef. 9-11-08; DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10; DMV 23-2010, f. 12-22-10, cert. ef. 1-1-11

735-046-0060
Graphic Registration Plate Series

(1) The graphic design plate produced as provided in chapter 572, Oregon Laws 1987, shall be issued as provided in section (2) of this rule to:

(a) Vehicles registered under ORS 803.420(1). This includes, but is not limited to the following vehicles:

(A) Motor trucks with a loaded weight of 8,000 pounds or less, except armored cars, wreckers, tow vehicles, hearses or ambulances;

(B) Vehicles commonly known as passenger cars; and

(C) Trailers with a loaded weight of 8,000 pounds or less, except travel trailers or trailers registered under a statute other than ORS 803.420(1).

(b) Any vehicle covered in section (1) of this rule and registered with a customized plate(s) as provided in ORS 805.240;

(c) Government-owned or -operated vehicles of the type covered under ORS 803.420(1) issued plates other than government-owned vehicle registration plates as described in ORS 805.200;

(d) Elected official plates covered under ORS 805.220; and

(e) Oregon National Guard plates covered under ORS 805.200.

(2) Vehicles listed in section (1) of this rule shall be issued a plate bearing the graphic design:

(a) Upon the initial registration of the vehicle in Oregon;

(b) Upon application for replacement plate(s); and

(c) Any time a plate(s) would normally be issued to a vehicle (i.e., when a change in registration type or change in class occurs, such as when the weight of a pickup truck is reduced and its registration changes from heavy truck registration under ORS 803.420(9) to passenger truck registration under ORS 803.410(1)).

(3) Nothing in this rule shall be deemed to limit the issuance of special registration plates as described in ORS Chapter 805.

Stat. Auth.: ORS 184.616, 184.619 & 805.115

Stats. Implemented: ORS 803.520 & 803.535

Hist.: MV 23-1988, f. 6-29-88, cert. ef. 7-1-88; MV 14-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 5-2000, f. & cert. ef. 8-10-00

735-046-0070
Charitable Organization/Non-Profit — Registration

(1) As used in this rule "charitable-nonprofit registration" means the registration established under ORS 803.420(11) for certain vehicles used exclusively as described in ORS 825.015 or 825.017.

(2) "Charitable organization" is as defined in ORS 825.017. To qualify as a charitable organization under this rule, the organization shall first qualify as such with the Motor Carrier Transportation Division (MCTD) of the Oregon Department of Transportation.

(3) "Nonprofit" is as is defined in ORS 825.015.

(4) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall issue plates of a special design for vehicles registered under charitable-nonprofit registration. Such plates shall:

(a) Contain the prefix letters "CN" followed by numerals;

(b) Be validated by a sticker that reflects the month and year of the registration expiration; and

(c) Only be valid for display on vehicles that qualify for charitable-nonprofit registration, and which are operated within the restrictions placed on that type of registration.

(5) To be eligible for charitable-nonprofit registration the vehicle shall be a motor vehicle that has a loaded weight of more than 8,000 pounds, and that either:

(a) Has a seating capacity of fewer than 16 persons, and is used exclusively in nonprofit operation for commuting to job, job training or educational facilities; or

(b) Is owned or operated by a charitable organization or under contract with a charitable organization, and used exclusively in performing transportation, either one way or round trip, necessary to the operation of the charitable organization.

(6) For a vehicle to qualify for charitable-nonprofit registration the owner shall make application to DMV. All of the following

apply to the initial registration of a vehicle under charitable-nonprofit registration:

(a) The applicant shall complete a certification on a form provided by DMV, or facsimile thereof, that shall include but may not be limited to a statement that:

(A) The vehicle shall be used exclusively as described in ORS 825.015 or 825.017;

(B) In the case of a vehicle being used by or under contract with a charitable organization, that the organization has an affidavit on file with MCTD as required under ORS 825.017; and

(C) That should the vehicle cease to be used for such purposes, or if the vehicle is sold to someone who does not qualify, that the charitable organization registration plates shall be surrendered to DMV.

(b) Plate manufacturing fees as established under OAR 735-032-0010 shall be required for the issuance of charitable-nonprofit registration plates.

Stat. Auth.: ORS 184.616, 184.619, 803.420(11), 803.535 & 805.200
Stats. Implemented: ORS 803.420 & 805.200
Hist.: MV 55-1989, f. & cert. ef. 12-21-89; DMV 8-1997, f. & cert. ef. 10-16-97

DIVISION 48

FARM VEHICLES

735-048-0000
Definitions

For the purposes of OAR 735-048-0000 through 735-048-0080 the following definitions apply:

(1) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(2) "Farm registration" is as provided in ORS 805.300 and includes any plates, stickers, tabs or devices issued as evidence of that registration.

(3) "Proportional farm registration" is as provided for in ORS 805.400 and includes plates, stickers, permits or other identification devices issued under ORS 805.200 and ORS 805.400.

(4) "Initial farm or proportional farm application" means the process by which a person first qualifies as a farmer and receives farm or proportional farm registration for vehicles being used in conjunction with the farming operation.

(5) "Farming operation" means the one or more farms, orchards or ranches belonging to a qualifying farmer; the agricultural commodities, products or livestock produced or raised thereon and the vehicles registered with farm or proportional farm registration for use in conjunction with the farming operation.

(6) "Qualifying farmer" means a person who has applied for and received certification as a farmer from MCTD in conjunction with a particular farming operation.

(7) "Agricultural commodities" as used in ORS 805.320 and 805.390 includes but is not limited to, livestock, poultry, agricultural, horticultural, viticultural and vegetable products. It does not include trees or forest byproducts except:

(a) Christmas trees which are grown or growing on land which has been prepared by intensive cultivation and tilling and on which all unwanted plant growth is controlled continuously for the exclusive purpose of growing such Christmas trees; or

(b) Hardwood timber, including but not limited to, hybrid cottonwood and hybrid poplars, which are:

(A) Grown or growing on land which has been prepared by intensive cultivation methods and which is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for manufacturing paper products;

(C) Harvested on a rotation cycle within 10 years after planting; and

(D) Subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation and irrigation.

(8) "Agricultural products" as used in ORS 805.320 and 805.390 includes products and by-products of agricultural commodities or livestock subject to the restrictions found in ORS 805.390(1).

(9) "Actually producing" means the farmer is growing agricultural commodities or raising livestock. For example, clearing the land with the intent of farming at a later date is not considered actually producing; however, an orchard which has been planted is considered actually producing.

(10) "Straw" is the stalk of grass or grain that is left after threshing.

(11) "Forest products" means products as defined in ORS 321.005(6).

(12) "Owner" and "ownership" of vehicles are as defined in ORS 801.375. In the case of a leased vehicle, the lessee must be shown as owner on the title as required by OAR 735-022-0100.

(13) A "substantial change" to a farming operation may occur when any of the following happens:

(a) The amount of land owned, leased or rented by the farmer listed for purposes of qualifying for farm registration decreases;

(b) The amount of agricultural commodities, products produced or livestock raised decreases to the point that they do not reasonably require the use of the vehicles registered under farm operation;

(c) The vehicle(s) ceases to be used on the one or more farms, orchards or ranches for which farm or proportional farm registration was applied for or ceases to be used for the purposes allowed under such registration; or

(d) The farming operation begins operating vehicles (other than pickup trucks) in combinations of four or more axles or which have a registered weight of over 26,000 pounds.

(14) "Non-qualifying commercial enterprise" means any business which is not directly related to the raising of agricultural commodities, livestock or the producing of agricultural products. An example of a non-qualifying commercial enterprise is a timber business.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 802.010 & 805.300 – 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0087; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 16-2004, f. & cert. ef. 7-15-04; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0020
Permitted Uses

(1) Vehicles registered with farm or proportional farm registration may be used only for the purposes allowed under ORS 805.390.

(2) Vehicles registered under farm or proportional farm registration may be operated for hire only as provided in ORS 825.024.

(3) Except as described in section (5) of this rule, uses permitted under ORS 805.390(2), (3), (5) and (6) do not include transportation related to non-qualifying commercial enterprises which may be being conducted by the farmer or in which the farmer participates on or off the farm. For example:

(a) Farmers who board horses which they are not raising may not legally transport them with a vehicle registered with farm plates, unless:

(A) The horses are owned and being raised by a farmer, who would qualify or is currently qualified for farm plates; and

(B) The horses are being transported on an exchange of labor basis as provided in ORS 805.390 or as provided under ORS 825.024.

(b) A farmer who also operates, works for or in some way participates in a non-farming business, industry or any other non-farming operation may not use farm registered vehicles in the transportation of supplies, equipment, goods or materials, etc., for the non-farming business, industry or other operation.

(4) A farmer who has farm registered vehicles may loan, rent or lease those vehicles to another farmer who is or would otherwise be qualified under ORS 805.310 for farm registration for vehicles of the type and size being borrowed, rented or leased. It is the responsibility of the farmer owning loaned, rented or leased farm registered vehicles to insure that:

(a) The farmer to whom the vehicles are loaned, rented or leased is qualified for vehicles of the type and size being loaned, rented or leased; and

(b) The vehicles loaned, rented or leased to another farmer are used only for those uses permitted by Oregon law.

(5) A farmer may use a vehicle registered for farm use to transport firewood, dirt, rock or other material removed from the farm, except items prohibited under ORS 805.390 that the farmer must transport incidental to the regular operation of the farm. Operations under this section must be conducted in the name of the farm.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 802.010 & 805.300 - 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 12-1984, f. & ef. 9-17-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0088; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 16-2004, f. & cert. ef. 7-15-04; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0030
Need for Vehicles Used in Conjunction with a Farming Operation

(1) For a vehicle to be considered needed in conjunction with a farming operation for purposes of farm registration, the Department will consider:

(a) Annual or quarterly yield of agricultural commodities, agricultural products or livestock;

(b) Design, capacity and use of vehicles in direct relationship to the agricultural commodities, agricultural products or livestock produced or raised; or

(c) Incidental factors such as distance to market, frequency of harvest, and volume of crops or livestock ready for market at a given time.

(2) The Department, in determining if a vehicle(s) is needed in the farming operation, will consider only the need that is directly related to the farmer's own farming operation. Examples of how this section applies include, but are not limited to, the following:

(a) Transportation of agricultural commodities raised on a farmer's own farm and transportation of supplies used or consumed on a farmer's own farm may be considered in determining need;

(b) Transportation of straw baled by the farmer but which originated on other than the farmer's own farm or on land not under written lease to the transporting farmer will not be considered in determining the need for a vehicle;

(c) Transportation under a permit issued under ORS 825.024 will not be considered in determining the need for a vehicle.

(3) For vehicles having a combined gross weight of 26,001 pounds or more or which are operated in combinations of four or more axles (other than a pickup truck), the annual yield of agricultural commodities, agricultural products or livestock of the farming operation at a minimum must be sufficient to fill each vehicle to registered capacity at least once annually.

(4) A Special Use Vehicle used in conjunction with the farm but not for the transportation of agricultural commodities, agricultural products or livestock (e.g., tank truck used only for water) is exempt from the requirements provided by this rule if the farmer has submitted a Special Use Vehicle application form and it has been approved by the Department.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 802.010 & 805.300 - 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986; Administrative Renumbering 3-1988, Renumbered from 735-071-0089, f. & ef. 1-30-8; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0040
Application and Annual Requalification

(1) Application for farm registration or renewal must be made as provided in this rule. The applicant must demonstrate to the satisfaction of MCTD that the applicant qualifies for farm registration as provided in ORS 805.310 and the vehicles for which farm registration is sought are reasonably required for farm operations.

(2) Qualification and application for farm registration or renewal are in addition to registration requirements in statute and rule for any vehicle, including the requirements to be titled in Oregon and f the vehicle is a motor vehicle to be covered by financial responsibility.

(3) To qualify for farm registration the owner of the farm must submit an application that includes:

(a) All of the information required under ORS 805.320, including statements and certifications;

(b) The number of axles of each motor vehicle or if used in a combination of vehicles, the number of axles in the combination;

(c) If none of the vehicles for which farm registration is sought will be operated in combinations of four or more axles (other than pickup trucks); and

(d) A statement that the applicant must immediately notify MCTD if there is any substantial change in the farming operation as defined in OAR 735-048-0000 and will comply with the provisions of the rules in Division 48.

(4) Owners of farming operations that operate vehicles or combination of vehicles (other than pickup trucks) with four or more axles must annually requalify for farm or proportional farm registration as required under ORS 805.322:

(a) The requalification process for farming operations will be staggered throughout the calendar year. MCTD will determine the date by which a given farming operation is to requalify based on factors including but not limited to when the owner originally qualified for farm registration or when the owner initially registered vehicles described in (3)(c) of this rule;

(b) MCTD will provide notice and an application for the owner to use in requalifying. To requalify, the owner must verify that all of the information previously submitted under statute and this rule is still correct or provide MCTD with information on any changes since the owner last qualified; and

(c) If a person required to requalify under this section fails to do so, MCTD:

(A) May refuse to renew or issue farm registration for vehicles for that farm; and

(B) May cancel any existing farm registrations.

(5)(a) If vehicles or combination of vehicles with four or more axles (other than pickup trucks) have been added since the owner last qualified, the owner must provide MCTD with enough information to qualify for the additional vehicles. The information must be on a form prescribed by MCTD and must include:

(A) The name and business or residence address of the applicant;

(B) The location and number of acres of one or more of the farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used;

(C) The type and amount of agricultural commodities, agricultural products or livestock produced annually on one or more of the farms upon which the motor vehicle sought to be registered is to be used; and

(D) A statement that the vehicle registered under ORS 805.300 is being used for one or more of the purposes described in ORS 805.390.

(b) A vehicle for which the use and capacity is substantially the same and was bought or leased to replace a vehicle previously registered as a farm vehicle does not qualify as an "additional vehicle."

(6) When a substantial change in a qualified farming operation occurs, the owner may be required to:

(a) Surrender farm registration plates and devices to MCTD if the owner or vehicle(s) no longer qualifies; or

(b) Submit a new application for farm registration if requested by MCTD.

(7) If the ownership of the farming operation changes, the new owner must:

(a) Apply for initial farm or proportional farm registration; or

(b) Surrender any farm registration plates or proportional farm registration devices not previously surrendered to MCTD.

(8) To be eligible for farm or proportional farm registration the following conditions apply to vehicles:

(a) Vehicles owned by a business (e.g., company, corporation, cooperative, etc.) will be eligible only if that business (not just the owner of the business) is actually engaged in a farming operation;

(b) The vehicle must be of the type designed or used to carry, convey or move freight, articles, persons or things over the highways; and

(c) All vehicles used in a particular farming operation and for which farm or proportional farm registration is applied must be titled and registered in the same name. An exception to this rule would be where there are multiple owners of the same land who are engaged jointly in a farming operation on said land but who individually own vehicles. Such vehicles may be registered in the appropriate owner's name.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 805.300 - 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0090; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0050
Additional Requirements

(1) Persons applying for original issue or renewal of farm or proportional farm registration or seeking to add vehicles to their farm or proportional farm registration may be required to furnish additional documentation to satisfy MCTD that the person and vehicles qualify for farm registration. The additional required documentation may include such things as:

(a) Evidence of annual yield of various types of agricultural commodities, agricultural products or livestock;

(b) Proof of ownership of vehicles or property including rental or lease agreements; or

(c) Proof of access by ownership or by lease or rental agreements to show sufficient acreage to support the raising or producing of agricultural commodities, agricultural products or livestock as may be claimed under subsection (1)(a) of this rule.

(2) Persons applying for or operating under farm or proportional farm registration may also be required to provide the additional information in section (1) of this rule and to make vehicles or property available for inspection by MCTD when conducting an investigation related to use of farm registered vehicles.

Stat. Auth.: ORS 184.616, 184.619, 805.200 & 805.300 - 805.410
Stats. Implemented: ORS 805.320
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0091; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0060
Plates and Devices Issued

(1) Farm registered vehicles will be issued registration plates.

(2) A vehicle registered on a proportional basis for interstate use will be issued proportional registration plates. In addition, the vehicle will be issued a device to reflect the farm registration:

(a) The device(s) must identify the vehicle as being registered under proportional farm registration and must be in a form of a registration plate(s) to be affixed to the exterior of the vehicle; or

(b) The Department may issue a temporary device in the form of a permit which must be carried in the vehicle.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 805.200, 805.300, 805.410
Hist.: MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-100-0740; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0070
Complaints

Complaints about improper farm or proportional farm registration or misuse of vehicles registered may be filed with MCTD headquarters: 550 Capitol St. NE, Salem, Oregon 97301.

Stat. Auth.: ORS 184.616, 184.619, 805.200 & 805.300 - 805.410
Stats. Implemented: ORS 805.380 & 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0092; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

735-048-0080
Cancellation

(1) MCTD may cancel farm registrations or proportional farm registration devices as provided under ORS 805.200, 805.380, 805.410, 809.090 or as otherwise provided by law.

(2) As used in ORS 805.380:

(a) "Cancellation" means that the vehicle's farm registration is no longer valid and the vehicle is not eligible for farm registration for one year after the cancellation; and

(b) "One year after cancellation" refers to calendar months, and will begin on the first day of the cancellation and end exactly 12 months later. (Example: If cancellation took effect on June 15, 1994, the one year would expire on June 14, 1995.)

(3) The owner of farm registered vehicles who has loaned, rented or leased a vehicle to another qualified farmer as permitted in OAR 735-048-0020, will be subject to farm plate registration cancellation if the borrower, renter or lessee of a vehicle is found in violation of farm plate registration regulations if the owner knew the vehicle was being used in violation of ORS 805.300 through 805.410.

Stat. Auth.: ORS 184.616, 814.619 & 805.300 - 805.410
Stats. Implemented: ORS 805.380 & 805.410
Hist.: MV 20-1983 f. 12-30-83, ef. 1-1-84; MV 3-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0093; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96; DMV 4-2013, f. & cert. ef. 4-22-13

DIVISION 50

FINANCIAL RESPONSIBILITY

735-050-0000
Determination of Ownership for the Purposes of Financial Responsibility

(1) Any person whose name appears as an owner on the vehicle registration will be considered an owner for the requirements of the financial responsibility laws (financial responsibility), ORS Chapter 806, unless exempted under sections (3) through (5) of this rule. Unless otherwise provided, any person seeking an exemption under this rule must furnish the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) with:

(a) A signed affidavit setting forth the reasons the person should not be considered an owner for purposes of financial responsibility; and

(b) An affidavit signed by the person who has the primary ownership interest in the vehicle explaining why he or she should be considered the owner for purposes of financial responsibility. This affidavit may be waived if DMV determines it is unfeasible to obtain the affidavit.

(2) Where the owners are married or in a domestic partnership and living together, both are considered owners.

(3) Where the owners are married or in a domestic partnership and living apart, an owner may be exempted from the requirements of financial responsibility by providing proof there has been a complete relinquishment of the vehicle by such owner to the other owner. Proof includes, but is not limited to, a separation agreement showing the date ownership of the vehicle was relinquished, or the affidavits described in section (1) of this rule.

(4) Where the marriage or domestic partnership of joint owners of a vehicle is dissolved it is the responsibility of the owner who obtains possession of the vehicle through a dissolution decree to transfer the title by presenting an application for transfer of title and a copy of the dissolution decree to DMV. If the owner awarded ownership of the vehicle by decree fails to transfer the title and is involved in an uninsured accident, the other owner may be exempted from the requirements of financial responsibility if proof is provided to DMV that his or her ownership interest has been extinguished by a dissolution decree. The person must present an affidavit that he or she no longer has possession or use of the vehicle and a copy of the dissolution decree to DMV.

(5) Where the owners are not married and not in a domestic partnership, an owner may be exempted from the requirements of

financial responsibility when DMV determines the person does not have the right to immediate possession and use of the vehicle. DMV may consider the following as proof of the right to immediate possession and use:

(a) Documentation one owner has paid or is paying all or a substantial part of the purchase price of the vehicle;

(b) Documentation one owner has paid the major portion of the vehicle's maintenance and operation costs; and

(c) Documentation or an affidavit showing one owner uses the vehicle the greater amount of time.

(6) When an owner transfers his or her interest in a vehicle by sale or otherwise (transferor), and transfers possession of the vehicle to the new owner (transferee), the transferor is considered the owner for purposes of financial responsibility unless:

(a) An application for transfer of title has been presented to DMV; or

(b) The transferor provides proof satisfactory to DMV that his or her interest in the vehicle has been transferred and showing that the transferee has the right to immediate possession and use of the vehicle. Such proof includes, but is not limited to, a written purchase agreement or bill of sale signed by the transferee or the affidavits described in section (1) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 806.010 & Sec. 3, Ch. 99, OL 2007

Stats. Implemented: ORS 806.010

Hist.: MV 32, f. 10-5-66; MV 36, f. 11-22-67; Administrative Renumbering 3-1988, Renumbered from 735-033-0015; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 14-2009, f. & cert. ef. 8-24-09

735-050-0010
Proof that an Accident is Not Reportable

(1) ORS 811.720 establishes when an accident must be reported to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV). If one person reports an accident and provides information that another party must report the accident, the second party may dispute the circumstances of the accident and the requirement to report to DMV. DMV must suspend driving privileges if a party involved in an accident fails to file an accident report when required.

(2) If DMV issues a suspension notice resulting from information that a party involved in an accident has failed to file an accident report as required, the party may provide proof to the DMV Accident Reporting Unit that the accident is not reportable. Proof of vehicle damage or injury must apply only to the party's vehicle or its occupants. Acceptable proof includes, but is not limited to, the following:

(a) A repair bill or estimate from an automotive repair business or statement from an insurance company responsible for paying the damage claim, showing damage to the party's vehicle is less than $1500;

(b) A repair bill or estimate, statement from an insurance company responsible for paying the damage claim or a statement from the owner of the property, showing damage to property other than a vehicle involved in the accident is less than $1500;

(c) The party's sworn statement that his or her vehicle was not towed from the accident scene. The statement must be notarized; or

(d) The party's sworn statement or a statement from the insurance company responsible for the damage claim that no person in the party's vehicle was injured as a result of the accident. The party's statement must be notarized.

(3) After reviewing the information provided, DMV will send a notice to the party stating whether or not an accident report must be filed with DMV.

(4) If DMV determines that the accident was not reportable for the party, DMV will stop or rescind any proposed suspension of the party's driving privileges.

(5) If DMV determines that the accident was not reportable for any party involved, DMV will remove the accident from the driving record of each party.

(6) For purposes of this rule, "party" means the driver or owner of a vehicle involved in an accident occurring on a highway or upon premises open to the public.

Stat. Auth.: ORS 802.010 & 806.250

Stats. Implemented: ORS 811.720

Hist.: MV 54, f. 7-2-74, ef. 7-25-74; Administrative Renumbering 3-1988, Renumbered from 735-033-0020; DMV 10-2006, f. & cert. ef. 8-25-06

735-050-0020
Self-Insurance Qualifications

(1) All applicants for self-insurance certificates pursuant to ORS 806.130 must apply by means of the "Application for Self-Insurance Certificate," Form Number 735-6798.

(2) DMV will issue a non-expiring self-insurance certificate to any applicant who:

(a) Certifies they are a local public body, as defined in ORS 30.260, which establishes a self-insurance program under ORS 30.282 for or on account of the operation of motor vehicles within the local public body's control;

(b) Certifies they are a public body, as defined in ORS 30.260, which insures the operation of motor vehicles within the public body's control under the provisions of ORS Chapter 278 or by contract with the Department of Administrative Services under ORS 30.282(4).

(c) Certifies that they are a federal agency of the United States; or

(d) Provides a certified copy of the Federal Motor Carrier Safety Administration written decision, order or letter authorizing the applicant's self-insured status.

(3) DMV will issue a self-insurance certificate that is valid for one year from the date of issuance to a qualified applicant who provides:

(a) An annual financial report issued within the last 12 months that shows to the satisfaction of the Department that the applicant has retained earnings in an amount as set forth is section (4) of this rule. The financial report must be an audited or reviewed report and contain statements and footnotes as required by generally accepted accounting principles, be signed by a licensed public accountant or a certified public accountant.

(b) A list of each vehicle that will be covered by the self-insurance certificate, including type of vehicle, plate number or vehicle identification number (VIN).

(c) A three-year motor vehicle accident history statement including the total number of motor vehicle accidents, accident claims against the applicant, claims satisfied, and judgments settled.

(d) A certification that the applicant:

(A) Has no unsettled judgments of the type described in ORS 806.040. For purposes of this subsection, a judgment is settled as described in ORS 809.470;

(B) Has more than 25 motor vehicles registered in the applicant's name; and

(C) Agrees to pay the same amounts with respect to an accident occurring while the self-insurance certificate is valid that an insurer would be obligated to pay under a motor vehicle liability policy, including uninsured motorist coverage and liability coverage to at least the limits specified in ORS 806.070.

(4) In order to satisfy the department that the applicant for self-insurance is qualified, the financial report required by section (3)(a) of this rule must show retained earnings available to pay and discharge judgments described under ORS 806.040 equal to or above the limits required by this based on type and number of vehicles. A fleet of mixed vehicle types must use the figures for the predominant vehicle type. The department may require a higher retained earnings amount than is listed in this rule, as determined by the department, if from the applicant's motor vehicle accident statement the department has reason to believe the applicant's accident rate is too high. The requirements are as follows:

(a) Private Passenger, Non-Rental Fleets: Fleet Size — Retained Earnings:

(A) 26–100 vehicles — $100,000.

(B) 101–250 vehicles — $190,000.

(C) 251–500 vehicles — $295,000.

(D) 501–750 vehicles — $440,000.

(E) 751–1000 vehicles — $575,000.

(F) 1001–1300 vehicles — $770,000.

(G) 1301–1600 vehicles — $850,000.
(H) 1601–2500 vehicles — $1,150,000.
(I) 2501–5000 vehicles — $1,950,000.
(J) 5001–7500 vehicles — $3,100,000.

(b) Private Passenger, Rental Fleets: Fleet Size — Retained Earnings:
(A) 26–100 vehicles — $100,000.
(B) 101–250 vehicles — $100,000.
(C) 251–500 vehicles — $100,000.
(D) 501–750 vehicles — $160,000.
(E) 751–1000 vehicles — $210,000.
(F) 1001–1300 vehicles — $280,000.
(G) 1301–1600 vehicles — $310,000.
(H) 1601–2500 vehicles — $420,000.
(I) 2501–5000 vehicles — $710,000.
(J) 5001–7500 vehicles — $1,120,000.
(K) 7501–10,000 vehicles — $1,520,000.
(L) 10,001–15,000 vehicles — $2,120,000.
(M) 15,001–20,000 vehicles — $2,900,000.
(N) 20,001–25,000 vehicles — $3,675,000.
(O) 25,001–30,000 vehicles — $4,425,000.
(P) 30,001–35,000 vehicles — $5,200,000.

(c) Trucks, Tractors and Trailers: Fleet Size — Retained Earnings:
(A) 26–100 vehicles — $100,000.
(B) 101–250 vehicles — $190,000.
(C) 251–500 vehicles — $300,000.
(D) 501–750 vehicles — $445,000.
(E) 751–1000 vehicles — $580,000.
(F) 1001–1300 vehicles — $775,000.
(G) 1301–1600 vehicles — $900,000.
(H) 1601–2500 vehicles — $1,150,000.
(I) 2501–5000 vehicles — $2,000,000.
(J) 5001–7500 vehicles — $3,100,000.

(d) Van Pools and Towing: Fleet Size — Retained Earnings:
(A) 26-100 vehicles — $125,000.
(B) 101–250 vehicles — $250,000.
(C) 251–500 vehicles — $380,000.
(D) 501–750 vehicles — $570,000.
(E) 751–1000 vehicles — $750,000.
(F) 1001–1300 vehicles — $1,010,000.
(G) 1301–1600 vehicles — $1,150,000.
(H) 1601–2500 vehicles — $1,550,000.
(I) 2501–5000 vehicles — $2,650,000.
(J) 5001–7500 vehicles — $4,200,000.

(e) Taxis and Limousines; Fleet Size — Retained Earnings:
(A) 26–100 vehicles — $400,000.
(B) 101–250 vehicles — $800,000.
(C) 251–500 vehicles — $1,240,000.
(D) 501–750 vehicles — $1,920,000.
(E) 751–1000 vehicles — $2,260,000.
(F) 1001–1300 vehicles — $2,590,000.
(G) 1301–1600 vehicles — $3,550,000.
(H) 1601–2500 vehicles — $4,100,000.
(I) 2501–5000 vehicles — $9,850,000.
(J) 5001–7500 vehicles — $15,950,000.

(5) To be reissued a one-year self insurance certificate that continues the certification without interruption, the holder of a current certificate must provide the documents and certifications described in section (3) of this rule at least 30 days prior to expiration of the current certificate.

(6) DMV may cancel a self-insurance certificate if any of the following circumstances occur:

(a) DMV has a reasonable basis to believe that any of the information contained in the application or supporting documents submitted by an applicant is false;

(b) DMV learns that the self-insurance certificate holder has failed to settle any judgment described under ORS 806.040 within 60 days after it has become final. For purposes of this subsection, a judgment is settled as described under ORS 809.470; or

(c) Authorization for self-insurance has been revoked by the Federal Motor Carrier Safety Administration.

Stat. Auth.: ORS 806.130 & 806.140
Stats. Implemented: ORS 806.130 - 806.140
Hist.: MV 8-1979, f. & ef. 10-18-79; MV 4-1985, f. 5-15-85, ef. 5-16-85; Administrative Renumbering 3-1988, Renumbered from 735-033-0025; MV 8-1987, f. 7-16-87, ef. 8-1-87; DMV 7-2007, f. 5-24-07, cert. ef. 9-1-07

735-050-0050
Content of Uniform Financial Responsibility Certificate and Procedure for Processing

(1) A person required to file a certificate of insurance, for purposes of proving future responsibility, must submit a Uniform Financial Responsibility Certificate (SR-22).

(2) An SR-22 will not be accepted unless it contains:

(a) The insured's complete name and address. If two names are on the certificate, it will not be accepted. The only exception is an "on-behalf-of" certificate. An "on-behalf-of" certificate is filed by an owner of a motor vehicle, showing proof of financial responsibility on behalf of their employee or a member of their immediate family in lieu of the driver furnishing such proof. The filing of this type of certificate only permits the person to operate a motor vehicle covered by the proof;

(b) The insured's driver license number and date of birth;

(c) The insurance carrier name, not the name of the insurance producer (agent). The carrier name is acceptable if preprinted on the back of the form, or typed on the front;

(d) The policy number;

(e) The effective date of the certification;

(f) A box must be checked to show whether the policy is for an operator or an owner;

(g) Information showing that the certificate is issued as proof of financial responsibility in Oregon;

(h) A certification by an authorized representative of the insurance carrier that a motor vehicle liability policy as required by the financial responsibility laws of Oregon, and in effect on the effective date of the certification, has been issued to the insured named on the SR-22;

(i) The date the SR-22 was issued. An SR-22 received by DMV more than 30 days after the date it was issued will not be accepted;

(j) The signature of the authorized representative of the insurance carrier. An electronic signature as described in OAR 735-018-0010(3) and 735-018-0060 constitutes a signature for purposes of this rule; and

(k) A secured internet Web site address at the bottom of the form if the SR-22 is provided to DMV in Web site format.

(3) The certification in subsection (2)(h) of this rule is a declaration of the issuing insurance carrier that:

(a) The policy covers all vehicles that are registered in the name of or operated by the named insured, except as provided in ORS 806.270(2); and

(b) If applicable, it has assumed the higher liability limits required for a Driving Under the Influence of Intoxicants conviction under the financial responsibility laws of Oregon as required by ORS 806.075.

(4) The insurer issuing the certificate must be authorized by the Insurance Division of the Oregon Department of Consumer and Business Services to do business in Oregon, unless the insurer is an eligible surplus lines insurer of a risk retention group.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 806.075, 806.240 & 806.270
Hist.: MV 15-1984, f. & ef. 11-1-84; Administrative Renumbering 3-1988, Renumbered from 735-033-0045; MV 21-1987, f. 9-21-87, ef. 9-27-87; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0055
Proof of Compliance with Financial Responsibility Requirements; Registration Renewal

(1) This rule specifies the information that constitutes satisfactory proof of compliance with financial responsibility requirements for the purposes of vehicle registration renewal under ORS 803.460.

(2) Information that a motor vehicle liability insurance policy has been issued for a vehicle applying for renewal of registration, submitted by insurers under ORS 742.580, 806.195, and OAR 735-050-0130 through 735-050-0160, constitutes satisfactory proof of compliance with financial responsibility requirements, unless DMV has reason to believe that the information is incorrect or outdated, or that the policy has been cancelled or not renewed.

(3) Nothing in this rule shall be construed to prevent DMV:

(a) From requiring an applicant for vehicle registration renewal to certify compliance with financial responsibility requirements, as set forth in ORS 803.460(1); and

(b) From using any information submitted by insurers under ORS 742.580, 806.195 and OAR 735-050-0130 through 735-050-0160, to verify the accuracy of any certification of compliance with financial responsibility submitted by the owner of a vehicle, or for any other purpose related to enforcement of compliance with financial responsibility requirements.

Stat. Auth.: ORS 184.616, 184.619 & 803.460
Stats. Implemented: ORS 803.370 & 803.460
Hist.: DMV 19-2002, f. & cert. ef. 10-14-02

735-050-0060
Good Faith Belief of Compliance with Financial Responsibility Requirements — Purpose and Definitions

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will terminate future responsibility filing requirements and rescind a financial responsibility suspension of a person's driving privileges as allowed by ORS 806.245, 809.380 and 809.450 when the person:

(a) Is currently in compliance with financial responsibility requirements; and

(b) Reasonably and in good faith believed he or she was in compliance at the time of the accident or DMV's letter of verification.

(2) For purposes of OAR 735-050-0060 through 735-050-0064 "good faith" means a state of mind of honesty in purpose and freedom from intent to defraud. Failure of a person to inquire further when the person could reasonably be expected to do so constitutes absence of good faith.

(3) For purposes of OAR 735-050-0060 through 735-050-0064, "reasonably believed" or "reasonable belief" means a belief based on the combinations of facts that existed and the circumstances that a person knew, or with ordinary diligence should have known, which would give cause for a rational person to believe.

(4) It is presumed that a person has knowledge of the contents of his or her motor vehicle liability insurance policy.

(5) DMV will rescind a suspension under this rule if DMV is presented with evidence that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements. Evidence for the above may be presented to the Accident Reporting and Insurance Verification Unit or at a hearing requested by the person. In either case, examples of such evidence include, but are not limited to, the following:

(a) Copies of cancelled checks, money orders or receipts for cash that show payment was received for an automobile liability insurance policy;

(b) Written verification on agency or company letterhead or sworn testimony from the insurance carrier or insurance producer (agent);

(c) Copies of insurance policies, binders, declarations or applications; and

(d) Notarized written statements or sworn testimony from a spouse, partner in a domestic partnership, co-owner of current or former policies or any other person involved in the payment of policy premiums.

(6) A person is entitled to a hearing on rescinding of the suspension of the person's driving privilege under this rule. A determination by the Accident Reporting and Insurance Verification Unit that the suspension should not be rescinded does not limit the person's right to a hearing.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 806.245, 809.380 & 809.450
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 17-1985, f. 12-19-85, ef. 1-1-86; MV 22-1987; Administrative Renumbering 3-1988, Renumbered from 735-033-0055, f. 9-21-87, ef. 9-27-87; MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0062
What Constitutes "Reasonably and in Good Faith"

(1) Examples of circumstances that constitute reasonable and good faith belief include, but are not limited to, the following:

(a) An insurance company accepted application and payment for liability insurance covering the period of time in question;

(b) An insurance carrier or producer (agent) told a person that he or she was insured or would be insured by a particular policy, and the person was not told otherwise until after the accident or the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) random sample;

(c) A separated spouse, partner in a domestic partnership, or other additional holder of an insurance policy cancels the policy without the person's knowledge and consent as shown by:

(A) Proof of legal separation; or

(B) A written statement from the party canceling the policy; and

(d) A person is not yet 21 years old, is attending school or is in the military service and believes he or she is covered by a parent's policy.

(2) DMV will use the examples in section (1) of this rule as guidelines in making decisions. However, each request for the rescinding of a suspension under this rule will be reviewed on a case-by-case basis.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 806.245, 809.380 & 809.450
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0064
What Does Not Constitute "Reasonably and in Good Faith"

(1) Examples of beliefs that do not constitute a reasonable and good faith belief include, but are not limited to, the following:

(a) Belief that a vendor's single interest (VSI) or other policy issued by a dealer or financing institution provides motor vehicle liability coverage. That policy or its declarations must clearly state that it does not provide motor vehicle liability insurance, does not meet financial responsibility requirements or contain some other similar statement;

(b) Belief by a person who is not yet 21 years of age, not attending school or not in military service, and not residing with a parent that he or she is covered by a parent's policy;

(c) Belief by a person that a policy meets the requirements of the financial responsibility law when the person has not read the policy declarations and limitations;

(d) Belief that a policy is still in force because of non-receipt of a notice of cancellation, unless the person presents substantial evidence showing that the insurance company did not meet the notification requirements for cancellation found in ORS Chapter 742;

(e) Belief that a spouse or partner in a domestic partnership, normally pays all bills and must have paid an insurance premium; and

(f) Belief based only upon an insurance carrier's or insurance producer's (agent) representation after an accident has occurred when, at the time of the accident, the person did not reasonably believe that they were covered.

(2) The Driver and Motor Vehicle Services Division of the Department of Transportation will use the examples in section (1) of this rule as guidelines in making decisions. However, each request for the rescinding of a suspension under this rule will be reviewed on a case-by-case basis.

Stat. Auth.: ORS 184.616, 184.619, 802.010 806.245, 809.380 & 809.450
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0070
Suspensions for Uninsured Accidents

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will suspend the driving privileges and right to apply for driving privileges of any person if the person is involved in any motor vehicle accident at any time when DMV determines the person has been driving uninsured.

(2) DMV will determine that a person was the driver of a vehicle involved in an accident if DMV receives a report to that effect from the police, an insurance carrier or insurance producer (agent), or any other person involved in the accident.

(3) If the accident must be reported to DMV, DMV will determine that a person was involved in an accident while driving uninsured if:

(a) The person does not respond to DMV's request for an accident report;

(b) The person does not respond to DMV's request for both the name of the insurance carrier and the policy number that covered the person's operation of the vehicle at the time of the accident; or

(c) The insurance carrier the person stated he or she was insured with denies coverage for the accident.

(4) DMV will grant a pre-suspension hearing under ORS 809.440(1), upon timely request, to any person whose driving privileges are suspended as described in section (1) of this rule. The suspension will not take effect pending the outcome of the hearing and DMV will impose the suspension if the administrative law judge affirms the suspension following the hearing.

(5) Once a suspension described in section (1) of this rule takes effect, DMV will rescind the suspension if the person supplies the name of an insurance carrier and policy number that covered the person's operation of the vehicle at the time of the accident.

(6) DMV will again suspend the driving privileges if the suspension was rescinded under section (5) and the insurance carrier subsequently denies coverage for the accident. The person will be eligible for full reinstatement of driving privileges one year from the new suspension date.

EXCEPTION: DMV shall subtract time served under the original uninsured accident suspension from the one-year suspension period.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.417
Stats. Implemented: ORS 809.417
Hist.: MV 22-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0065; MV 15-1991, f. 9-18-91, cert. ef. 10-1-91; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 10-2006, f. & cert. ef. 8-25-06; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0080
Financial Responsibility Verification Program

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will randomly select motor vehicles for financial responsibility verification. The total number randomly selected each year will not exceed ten percent of the motor vehicles registered in Oregon that are subject to verification.

(2) DMV may, in addition, designate persons for verification of financial responsibility requirements if DMV has reasonable grounds to believe that the person is in violation of financial responsibility requirements. DMV's determination of reasonable grounds will be based on the following:

(a) Written statements from police, insurance carriers, insurance producers (agents), and the public;

(b) Any admission to DMV by the owner of an Oregon-registered vehicle that the vehicle is not insured;

(c) Receipt by DMV of any record from another jurisdiction that the owner of any Oregon-registered vehicle was convicted of driving uninsured, regardless of the vehicle driven at the time of offense.

(d) Receipt by DMV of any record from another jurisdiction indicating that an Oregon-registered vehicle was driven without insurance, regardless of who was driving the vehicle;

(e) Statements made during an administrative hearing by a driver or owner of a vehicle that the Oregon-registered vehicle was driven while uninsured; or

(f) No record of submission from an insurance carrier, pursuant to ORS 742.580, 806.195 and OAR 735-050-0130 through 735-050-0160, that a motor vehicle liability insurance policy has been issued.

(3) DMV will use a written statement as identified in section (2)(a) of this rule as a basis for a financial responsibility verification request only if the person making the statement does all of the following:

(a) Signs and dates the request;

(b) Identifies the vehicle that the person believes is being operated in violation of financial responsibility requirements; and

(c) Explains why the person believes the vehicle is being operated in violation of financial responsibility requirements and includes facts that would cause a reasonable person to believe the vehicle is being operated in violation of financial responsibility requirements.

(4) DMV will suspend the driving privileges or right to apply for driving privileges of any person who fails to make a future responsibility filing after failing verification or who falsely certifies compliance with financial responsibility requirements.

(5) A person who fails to make a future responsibility filing after failing verification or who falsely certifies compliance with financial responsibility requirements is entitled to a pre-suspension hearing in accordance with ORS 809.440(1) and 809.415. If no pre-suspension hearing is held, a person may be entitled to a post-imposition hearing in accordance with OAR 735-050-0090.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & ORS 806.150
Stats. Implemented: ORS 806.150 & ORS 809.450
Hist.: MV 2-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0075; MV 12-1990, f. & cert. ef. 7-16-90; MV 6-1991, f. & cert. ef. 7-16-91; DMV 9-2003, f. & cert. ef. 7-17-03; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10

735-050-0100
Future Responsibility Filing Requirements Following Mandatory Suspension or Revocation

(1) For purposes of this rule, "proof" means proof of future responsibility filings as described in OAR 735-050-0050.

(2) The requirement to file proof following a suspension or revocation of the person's driving privileges begins on the scheduled expiration date of the following:

(a) The suspension or revocation of the person's driving privileges under ORS 813.400, 809.411(2), (3), (4), (5), (6), (7), (10), 809.417(2), or 809.409(2), (3), (4), (5);

(b) The revocation of the person's driving privileges under ORS 809.235.

(3) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will reflect the filing requirement by making an entry on the person's driving record of the Proof Required Until (PRU) date. The PRU date is three years after the expiration date of the suspension or revocation.

(4) Thirty days before the expiration of the suspension or revocation described in section (2)(a) of this rule, DMV will send the person a notice that a suspension under ORS 809.415(3) will be imposed for failure to make future responsibility filings unless proof is filed. The suspension notice will specify the suspension for failure to file proof will begin on the expiration date of the suspension or revocation. Once a suspension for failure to file proof is imposed, it remains in effect until the PRU date or until the person files proof, whichever comes first.

(5) When DMV receives a court order to restore driving privileges under ORS 809.235(5), DMV will not reinstate driving privileges until the person provides proof. In addition, upon receipt of the court order DMV will send the person a notice that a suspension under 809.415(3) will be imposed in 30 days unless proof is filed. Once a suspension for failure to file proof is imposed, it remains in effect until the PRU date or until the person files proof, whichever comes first.

(6) A suspension for failure to file proof will not take effect if the person files proof before the effective date of the suspension.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 806.240, 806.245, 809.235 809.409, 809.411, 809.415, 809.417 & 813.400

Hist.: MV 5-1989, f. & cert. ef. 1-17-89; DMV 6-1998, f. & cert. ef. 6-19-98; DMV 6-2013, f. & cert. ef. 5-23-13

735-050-0120
Proof of Compliance With Financial Responsibility Requirements

For purposes of ORS 806.011 and 806.012, any of the following constitutes proof of compliance with financial or future responsibility requirements that must be carried in the motor vehicle covered by such proof:

(1) A current motor vehicle insurance card issued by the insurer either as a paper card or electronically for display on a personal electronic device.

(2) An unexpired motor vehicle liability insurance policy for the particular vehicle that meets the standards set forth in ORS 806.080;

(3) An unexpired motor vehicle liability insurance binder issued by the insurance carrier or its authorized insurance producer (agent) for the particular vehicle that meets the standards set forth in ORS 806.080;

(4) A letter signed by a representative from an insurance carrier or its authorized agent, on the insurance carrier's or agent's letterhead, that verifies current insurance coverage;

(5) A certificate of self insurance issued by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) under ORS 806.130 naming the owner of the particular vehicle; or

(6) A displayed Oregon dealer plate unless the vehicle dealer is exempt from the requirement to file a certificate of insurance under ORS 822.033. If the vehicle dealer is exempt from the insurance requirements under 822.033, one of the proofs of compliance with financial responsibility requirements described in sections (1) to (5) of this rule must be carried in the vehicle displaying the Oregon dealer plate.

Stat. Auth.: ORS 184.616, 184.619, 806.011, 806.012 & 2013 OL Ch 108
Stats. Implemented: ORS 806.011, 806.012 & 2013 OL Ch 108
Hist.: DMV 3-1994, f. & cert. ef. 7-21-94; DMV 22-2002, f. 11-18-02, cert. ef. 1-1-03; DMV 14-2003, f. 10-24-03, cert. ef. 1-1-04; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 23-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-17-13; DMV 17-2013, f. & cert. ef. 11-25-13

735-050-0130
General Provisions for Electronic Insurance Reporting

(1) The purpose of OAR 735-050-0130 through 735-050-0160 is to establish the information required to be transmitted to DMV by insurance companies and the form in which the information must be transmitted, as required by ORS 806.195.

(2) Implementation of ORS 742.580, 802.270 and 806.195, and OAR 735-050-0130 through 735-050-0160 may be used to augment DMV insurance monitoring programs used in determining uninsured motorist issues but will not affect any financial responsibility requirements.

(3) Insurers must report information to DMV for:

(a) Motor vehicles registered in Oregon;

(b) Motor vehicles based in Oregon if the state of registration is unknown;

(c) Licensed drivers with non-owner policies; and

(d) Organizations with non-vehicle specific policies.

(4) Insurance information for the insurance data base will only be accepted from insurers. Insurance information brought or sent to DMV by the registered owner of a vehicle to update the DMV insurance data base will not be accepted.

(5) Insurers writing fewer than 1000 policies or policies on fewer than 1000 vehicles in Oregon may send information to DMV on diskette or paper.

(6) DMV must give at least 60 days notice to insurers of any change in reporting requirements.

Stat. Auth.: ORS 184.616 & OL 1993, Ch. 746
Stats. Implemented: OL 1993, Ch. 746
Hist.: DMV 1-1996, f. 2-16-96, cert. ef. 3-1-96; DMV 19-2001, f. & cert. 10-18-01

735-050-0140
Definitions Relating to Electronic Insurance Reporting

The following definitions apply to OAR 735-050-0130 through 735-050-0160:

(1) "ANSI ASC X12" means the American National Standards Institute, Accredited Standards Committee X12 conventions currently used.

(2) "Customer identification number" means the driver license or permit number, identification card number or a DMV assigned customer number.

(3) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(4) "Driver license jurisdiction" means the state, territory or province that issued the customer identification number.

(5) "Insured" means the primary person or organization identified on the insurer records as the named holder for the coverage in force as described in ORS 806.080.

(6) "Insurer" means a person or organization engaged in the business of issuing motor vehicle liability insurance coverage designed to meet either the financial or future responsibility requirements of ORS Chapter 806.

(7) "NAIC" means the National Association of Insurance Commissioners.

(8) "Policy" means motor vehicle liability coverage issued by an insurer, identified as a specific vehicle policy, non-owner policy or a non-vehicle specific policy.

(9) "Termination date" means the date a policy or vehicle coverage is canceled, or the date coverage is no longer valid because a person failed to renew. This is inclusive of all grace periods or other interim actions the insurer may allow prior to canceling a policy or vehicle coverage.

(10) "Transaction type" means identification as new vehicle coverage or termination of vehicle coverage.

(11) "VIN" means the vehicle identification number.

Stat. Auth.: ORS 184.616 & OL 1993, Ch. 746
Stats. Implemented: OL 1993, Ch. 746
Hist.: DMV 1-1996, f. 2-16-96, cert. ef. 3-1-96; DMV 19-2001, f. & cert. ef. 10-18-01

735-050-0150
Electronic Insurance Reporting

(1) All insurers must send insurance information electronically when a new vehicle is added, an insurance policy is issued or upon termination of vehicle coverage or policy coverage within the time limits established under ORS 742.580.

(2) Electronic transmissions must be sent and received using the AT&T Global service or other network service approved by DMV.

(3) The insurer must transmit insurance information to DMV using the ANSI ASC X12 standards, Transaction set 811.

(4) Any data transmitted or received electronically through the network specified by DMV must conform to system specifications. These include data structure, content and format.

(5) DMV will electronically check insurance information to determine the presence of data elements specified in OAR 735-050-0160. If the data elements are not present, DMV will reject the information. If rejected, DMV will electronically notify the insurer. Insurers must resubmit the insurance data, with all required data elements in a timely manner as specified in ORS 742.580.

(6) If an insurer determines any insurance information was submitted in error, insurers must submit a termination of the previous incorrect information and, if applicable, a replacement transaction, simultaneously.

(7) All terminations must include a policy number and vehicle identifiers that match exactly the record to be terminated.

Stat. Auth.: ORS 184.616 & OL 1993, Ch. 746
Stats. Implemented: OL 1993, Ch. 746
Hist.: DMV 1-1996, f. 2-16-96, cert. ef. 3-1-96; DMV 19-2001, f. & cert. ef. 10-18-01

735-050-0160
Data Elements for Electronic Insurance Reporting

(1) The insurer must transmit the information specified in ORS 742.580, and the data elements established in section (2) of this rule for vehicle specific policies or section (3) of this rule for non-owner or non-vehicle specific policies.

(2) Mandatory data elements for vehicle specific policies are:

(a) A complete VIN;

(b) Vehicle make;

(c) Vehicle year;

(d) Insurance company number using the NAIC code;

(e) Insurance policy number;

(f) Insurance policy effective date, if the transaction type is new;

(g) Insurance policy termination date, if the transaction type is terminate;

(h) Transaction type code;

(i) Transaction date, being the date insurance data is submitted;

(j) Policy type; and

(k) Vehicle registration plate number, if available.

(3) Mandatory data elements for non-owner or non-vehicle specific policies are:

(a) Insurance company number using the NAIC code;

(b) Insurance policy number;

(c) Insurance policy effective date, if the transaction type is new;

(d) Insurance policy termination date, if the transaction type is terminate;

(e) Insured's driver license jurisdiction;

(f) Oregon DMV customer identification number of insured;

(g) Insured's date of birth, if a person and not an organization;

(h) Transaction date, being the date insurance data is submitted;

(i) Policy type; and

(j) Vehicle registration plate number, if available.

Stat. Auth.: ORS 184.616 & OL 1993, Ch. 746
Stats. Implemented: OL 1993, Ch. 746
Hist.: DMV 1-1996, f. 2-16-96, cert. ef. 3-1-96; DMV 19-2001, f. & cert. ef. 10-18-01

DIVISION 59

SIGNS — GENERAL PROVISIONS

735-059-0100
Outdoor Advertising Permit and Business License Fees

This rule establishes fees for outdoor advertising permits and business licenses as authorized by ORS 377.729.

(1) The fees for issuance of a permit for any sign in a year in which the sign is new, is relocated, as defined in ORS 377.710(26), or is reconstructed under ORS 377.725 are as follows: [Table not included. See ED. NOTE.]

(2) The fees for annual renewal of all sign permits issued under the authority of ORS 377.712, 377.725 and 377.726 are as follows: [Table not included. See ED. NOTE.]

(3) The fees for the annual renewal of permits that remain valid under ORS 377.725 pending relocation of a sign, where the sign is not currently on location, shall be $10.

(4) The annual fees for outdoor advertising business licenses under ORS 377.730 are as follows: [Table not included. See ED. NOTE.]

(5) The following apply to the annual renewal of a permit issued under ORS 377.712, 377.725 or 377.726:

(a) The renewal is due by January 2nd. If a renewal is mailed, it must be post marked no later than January 2nd.

(b) A permit may be renewed within the 30-day grace period allowed by ORS 377.725(4), if a fee equal to twice the amount specified in section (2) of this rule is paid. A fee paid within the 30-day grace period must be received by ODOT or post-marked no later than February 1st.

(6) A permit that is not renewed in compliance with section (5) of this rule will be canceled. A canceled permit cannot be reinstated.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 377.725 & 377.729
Stat. Implemented: ORS 377.712, 377.725, 377.726, 377.729 & 377.730
Hist.: TO 6-2001(Temp), f. & cert. ef. 11-9-01 thru 5-7-02

DIVISION 60

THIRD PARTY TESTING FOR COMMERCIAL DRIVER LICENSES

735-060-0000 [Renumbered to **735-060-0003]**

735-060-0001
Purpose

The DMV Commercial Driver Licensing Third Party Testing Program allows a person who is not an employee of DMV (a third party) to administer a CDL skills tests to a CDL applicant to determine whether the CDL applicant is competent to obtain commercial driving privileges. This program and acceptance of CDL applicant test scores are authorized under ORS 807.080 and 807.072(3). Other than as provided in OAR 735-063-0270, only a person who has a valid CDL Third Party Examiner Certificate issued by DMV and who is administering the CDL skills test for a certified CDL Third Party Tester is authorized under this program to administer CDL examinations. The purpose of these Chapter 735, Division 60 rules is to describe the CDL Third Party Testing Program, including how a person qualifies for a CDL Third Party Tester Certificate, duties of a Tester, how an individual qualifies for a CDL Third Party Examiner Certificate, duties of an Examiner and other details of the CDL Third-Party Testing Program.

Stat. Auth.: ORS 184.616, 184.619, 807.072 & 807.080
Stats. Implemented: ORS 807.040, 807.070, 807.072 & 807.080
Hist.: DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0003
Definitions

The following definitions apply to terms in OAR Chapter 735, Division 60:

(1) "Administrative training" means instruction provided by DMV to a CDL Third Party Tester Representative that describes the administrative requirements and duties of a CDL Third Party Tester, including but not limited to, maintaining records and proper completion of DMV-required reports in CSTIMS.

(2) "Business day" means 8:00 a.m. to 5:00 p.m. any weekday excluding any holiday when DMV is closed.

(3) "Calendar day" means the period that begins at 12:01 a.m. and ends at 11:59 p.m. on the same day.

(4) "Cancel" in relation to a CDL Third Party Tester Certificate of a CDL Third Party Examiner Certificate means to void the authority granted by the certificate.

(5) "CDL" means a Class A, B or C Commercial Driver License.

(6) "CDL skills test" means the test, as described in OAR 735-060-0120, of the competency of the CDL applicant to operate a CMV of the type and class for which the test qualifies the CDL applicant.

(7) "CDL Third Party Examiner" or "Examiner" means an individual who has been authorized by DMV to administer a CDL skills test through a CDL Third Party Tester.

(8) "CDL Third Party Examiner Certificate" means a document issued by DMV that authorizes an individual to administer, on behalf of DMV, a CDL skills test to a CDL applicant.

(9) "CDL Third Party Tester" or "Tester" means a person authorized by DMV to operate a CDL skills testing program and provide a CDL Third Party Examiner to administer CDL skills tests to determine driver competency.

(10) "CDL Third Party Tester Certificate" means a driver competency testing document issued by DMV to authorize the person to operate as a Tester, pursuant to ORS 807.080.

(11) "CDL Third Party Tester Representative" or "Representative" means an individual, designated by the CDL Third Party Tester, to be responsible for the Tester's activities required by administrative rule and the CDL Third Party Tester Agreement.

(12) "CLP" means a commercial learner driver permit issued under ORS 807.285 on or after September 26, 2016, or a commercial instruction permit issued under ORS 807.280 prior to September 26, 2016.

(13) "CMV" means "commercial motor vehicle" as defined in ORS 801.208.

(14) "CSTIMS", means Commercial Skills Test Information Management System, a web-based computer system for scheduling and reporting CDL skills tests information and results.

(15) "Commercial truck or bus driver training school" means a licensed private career school or community college that offers training to the general public in driving CMVs.

(16) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(17) "FMCSA" means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

(18) "Motor carrier" means a for-hire carrier or private carrier, as those terms are defined in ORS 825.005, that is subject to the FMCSA Regulations.

(19) "Oregon CDL Examiner's Manual" (DMV Form 735-7306) means the document that provides information to DMV and Examiners on administering a CDL skills test as provided in OAR 735-060-0120.

(20) "Owner," when used in connection with a person that is a CDL Third Party Tester, means a sole proprietor, partner, officer, director or a shareholder who holds 20% or more of the business.

(21) "Person" includes, but is not limited to, a motor carrier, a private driver training facility, a public or private business, a sole proprietorship or a department, agency or instrumentality of a state or local government.

(22) "Personal information" is as defined in ORS 802.175.

(23) "Revocation" means the termination of a CDL Third Party Tester Certificate or of a CDL Third Party Examiner Certificate and the right to apply for the certificate for the length of time specified in the Notice of Revocation.

(24) "Suspension" means a temporary withdrawal of the authority granted by a CDL Third Party Tester Certificate or of a CDL Third Party Examiner Certificate for the length of time specified in the Notice of Suspension.

(25) "Test site" means the physical location where an Examiner administers the pre-trip vehicle inspection and the basic control skills test portions of the CDL skills test.

(26) "Traffic crime" is as defined in ORS 801.545.

(27) "Valid CDL" means a CDL issued to an Examiner for the class of vehicle, with any necessary endorsement, required to operate a CMV for which the Examiner intends to administer CDL skills tests. "Valid CDL" does not include:

(a) A CDL with restrictions that would make the Examiner's operation of the CMV unlawful under ORS 807.010(2);

(b) A CDL that is currently expired, suspended, revoked, cancelled, or otherwise withdrawn in any jurisdiction; or

(c) A grant of driving privileges issued as a permit.

Stat. Auth.: ORS 184.616, 184.619, 807.072 & 807.080

Stats. Implemented: ORS 807.040, 807.070, 807.072 & 807.080

Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 4-1987, f. & ef. 5-18-87; MV 23-1987, f. & ef. 9-28-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0600; MV 6-1990, f. & cert. ef. 4-2-90; MV 9-1991(Temp), f. & cert. ef. 7-26-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 20-2010, f. 11-19-10, cert. ef. 1-1-11; Renumbered from 735-060-0000, DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0030
Qualifications for CDL Third Party Testers

(1) To qualify for CDL Third Party Tester Certificate, a person must meet and continue to meet throughout the term of the certificate, all of the following qualifications:

(a) Maintain a business office or facility within the State of Oregon where CDL applicant records are securely kept and are available for inspection or audit by DMV, the Oregon Secretary of State's Office or the FMCSA. To qualify as a business office or facility, it must be staffed and open during posted business hours or have a business phone with an answering service, answering machine or voice mail service, with the ability to return all business related messages no later than the following business day.

(b) Comply with all federal, state and local laws or regulations, including all business and zoning requirements.

(c) Have a business name that is registered and listed as active with the Corporation Division of the Office of the Oregon Secretary of State, unless the person is a department, agency or instrumentality of a state or local government.

(d) Have an active e-mail address and Internet access.

(e) Enter into a CDL Third Party Tester Agreement with DMV and comply with all of its terms and conditions.

(f) Designate at least one CDL Third Party Tester Representative, who may be the owner or an employee of the Tester. If more than one Representative is designated, the responsibilities of each must be clearly described, in writing, to the satisfaction of DMV. The Representative must have basic computer skills and complete administrative training as required and provided by DMV.

(g) Have an owner or a Representative who is certified as a CDL Third Party Examiner or has applied for certification as a CDL Third Party Examiner, or have at least one Examiner associated with it.

(h) Maintain comprehensive commercial liability insurance as specified in the CDL Third Party Tester Agreement.

(i) Provide to DMV a surety bond as specified in the CDL Third Party Tester Agreement.

(j) Provide to DMV a statement of consent, signed by an owner or the Representative, allowing DMV to confirm the liability insurance described in subsection (1)(h) of this rule and the surety bond described in subsection (1)(i) of this rule.

(k) Pass the inspection described in OAR 735-060-0040.

(L) Submit to DMV a schedule of all testing services offered and the fee charged for each of those services, if the Tester is compensated for testing services.

(m) Administer CDL skills tests in compliance with all the requirements set forth in OAR 735-060-0120.

(2) A person is not qualified for a CDL Third Party Tester Certificate if the person fails to meet any of the following requirements:

(a) The person has a CDL Third Party Tester Certificate, a CDL Third Party Examiner Certificate or equivalent authorization, issued by any jurisdiction that is currently cancelled, suspended, revoked or otherwise withdrawn.

(b) The person has had a CDL Third Party Tester Agreement, issued by any jurisdiction, involuntarily terminated within the five years immediately preceding the date the person submits an application for a CDL Third Party Tester Certificate to DMV.

(c) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has had a CDL Third Party Tester Certificate, a CDL Third Party Examiner Certificate or equivalent authorization, issued by any jurisdiction, that was cancelled, suspended, or revoked or otherwise involuntarily terminated for conduct that would result in permanent revocation in Oregon.

(d) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has a Driver Testing Certificate, a Driver Training School Certificate or Driver Training Instructor Certificate or equivalent authority issued by any jurisdiction that is currently cancelled, suspended or revoked.

(e) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has been terminated from employment with a state driver licensing agency, any Third Party Tester or equivalent business, a Driver Training School or equivalent business, in any jurisdiction, for a cause related to fraud, or any other reason if DMV determines from the facts and intervening circumstance of the termination that the

person is not fit to perform the duties of a Tester or poses a risk to the safety of persons while performing those duties.

(f) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has engaged in conduct that is substantially related to the person's fitness to hold a CDL Third Party Tester Certificate and that demonstrates to DMV unfitness or inability to perform the duties of a Tester.

(g) The person is a motor carrier with an unsatisfactory safety rating from FMCSA or the Oregon Department of Transportation, Motor Carrier Transportation Division.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 18-1986, f. & ef. 10-16-86; MV 4-1987, f. & ef. 5-18-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0630; MV 24-1988, f. & cert. ef. 7-1-88; MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0040
Inspection

(1) An applicant for a CDL Third Party Tester Certificate must pass an inspection to ensure compliance with all Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing. An authorized representative of DMV will, during regular business hours, inspect the applicant's business office or facility, and any proposed test site, and on-road drive test routes submitted as part of the application.

(2) DMV, the Oregon Secretary of State, or FMCSA may conduct an unscheduled inspection of the business premises, records and equipment of a CDL Third Party Tester to review compliance with all Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing. No notice will be given to the Tester prior to the unscheduled inspection. The Tester must consent to and fully cooperate with the unscheduled inspection.

(3) In addition to any other inspection, DMV will, at least once every two years, conduct an on-site inspection of each Tester to review compliance with Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing.

(4) An onsite inspection, whether scheduled or unscheduled, may include an inspection of:

(a) CDL Third Party Tester records.

(b) Security of CDL applicant personal information.

(c) A review of the Tester's qualifications and compliance with the terms of the CDL Third Party Tester Agreement.

(d) The testing procedures used by CDL Third Party Examiners of the Tester including the test site(s) and on-road drive test route(s).

(e) Any other related areas the DMV representative may deem necessary at the time of the inspection.

(5) As part of an inspection, a DMV representative may observe, co-score and evaluate a CDL Third Party Examiner administering a CDL skills test or retest a sample of the CDL applicants who were tested by an Examiner of the Tester to compare scoring and monitor testing procedures. The Tester must provide a vehicle that will accommodate the Examiner, the CDL applicant being tested, and the DMV representative.

(6) A DMV representative may pose as a customer of a Tester without disclosing that the representative is an employee of DMV in order to inspect the manner in which CDL skills tests are administered.

(7) To pass an inspection, the Tester must be in compliance with the Oregon statutes, DMV administrative rules and federal regulations relating to CDL Third Party testing.

(8) The DMV representative conducting the inspection will prepare a written report and specify any deficiencies that the Tester must correct. The Tester will be given a copy of the report. Deficiencies identified must be corrected by the Tester within 30 calendar days of the date DMV sends the report to the Tester.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0635; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0050
Application for and Issuance of CDL Third Party Tester Certificate

(1) To apply for a CDL Third Party Tester Certificate, an applicant must:

(a) Meet all the qualifications set forth in OAR 735-060-0030;

(b) Submit the following to DMV, CDL Third Party Testing, 1905 Lana Avenue NE, Salem, Oregon 97314:

(A) A completed Application for a Third Party Tester Certificate, DMV Form 6766, signed by the Representative;

(B) An original CDL Third Party Tester Agreement, signed by the Representative;

(C) One or more proposed test sites where the pre-trip vehicle inspection and basic control skills portions of the CDL skills test will be administered;

(D) For each proposed test site at least one proposed on-road drive test route;

(E) An Application for a CDL Third Party Examiner's Certificate, DMV Form 6767, for each CDL Examiner who will administer CDL skills tests for the Tester;

(F) Proof of comprehensive commercial liability insurance and proof of comprehensive auto liability insurance, if applicable, that meets the requirements specified in the CDL Third Party Tester Agreement. A self-insured public agency covered by the Oregon Tort Claims Act must submit a statement of self-insurance;

(G) Proof of surety bond as required by OAR 735-060-0030(1)(k), unless the Tester is a public agency; and

(H) Authorization for:

(i) Verification of tax compliance;

(ii) Verification of the liability insurance described in OAR 735-060-0030(1)(j); and

(iii) Verification of the surety bond described in OAR 735-060-0030(1)(j).

(2) A CDL Third Party Tester Certificate is valid for two years, unless cancelled, suspended, revoked or the Tester's CDL Third Party Tester Agreement is terminated. The certificate will expire two years from the end of the month it is issued or renewed. For example, a certificate issued or renewed on April 2, 2015 will expire on April 30, 2017.

(3) A CDL Third Party Tester Certificate may be replaced if the original certificate is lost, mutilated or destroyed. To apply for a replacement certificate, a written request that describes the reason for the replacement must be submitted to DMV CDL Third Party Testing, 1905 Lana Avenue NE, Salem, Oregon 97314.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0640; MV 24-1988, f. & cert. ef. 7-1-88; MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0051
Refusal to Issue a CDL Third Party Tester Certificate

(1) DMV may not issue a CDL Third Party Tester Certificate to any person when:

(a) DMV determines that information contained in the application is false;

(b) DMV determines that the person fails to meet any qualification for certification required by these rules; or

(c) DMV determines that issuance of the certificate to a specific person may compromise the integrity of the CDL Third Party Testing Program, as described in OAR 735-060-0140.

(2) DMV may not process any application for a CDL Third Party Tester Certificate if any portion of the application is missing or incomplete.

(3) If DMV refuses to issue a CDL Third Party Tester Certificate the person is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) A person must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a CDL Third Party Tester Certificate pending the outcome of the hearing.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0055
Duties of a CDL Third Party Tester

(1) A Tester must:

(a) Meet the qualifications for a Tester described in OAR 735-060-0030 throughout the term of the certification;

(b) Notify DMV in writing prior to making any changes to, deviations from, or modifications to a test site or an on-road drive test route unless there is good cause for such change, deviation or modification due to an unexpected closure or safety issue that could not be anticipated by the Tester or Examiner. Good cause includes, but is not limited to, an accident, downed trees or power lines, flooding, or unannounced construction. Any change, deviation or modification from on-road drive test route must not result in any scored maneuver being skipped. Any change, deviation or modification from the test site or on-road drive test route must be noted in CSTIMS along with an explanation of the cause for the change, deviation or modification;

(c) Notify DMV in writing within 10 calendar days of any change in:

(A) The address of the Tester's business office, facility or campus;

(B) The status of an Examiner or a Representative, including an Examiner or Representative who has become associated with or is no longer associated with the Tester;

(C) The name and address of the Representative, registered agent, an owner, agent or manager;

(D) The services offered to the public related to CDL skills testing and the fees charged for those services;

(d) Notify DMV in writing within two business days if:

(A) The Tester goes out of business;

(B) The Tester no longer meets any qualifications set forth in OAR 735-060-0030; or

(C) An Examiner associated with the Tester no longer meets the qualifications set forth in OAR 735-060-0090;

(D) An Examiner associated with the Tester is no longer associated with the Tester;

(E) An Examiner associated with the Tester has been arrested for or convicted of a traffic crime.

(e) Ensure that all Examiners associated with the Tester remain in compliance with all statutes, administrative rules and regulations related to the qualifications and duties of Examiners.

(f) Ensure that before any individual associated with the Tester views or enters information in CSTIMS, the individual takes the CSTIMS Privacy Awareness Training.

(g) Make any and all business records, vehicles and facilities related to the operation of the Tester's testing program available for inspection by representatives of DMV, the Oregon Secretary of State or FMCSA with or without prior notice.

(h) Correct any deficiencies specified in an inspection report within 30 calendar days of receipt of the report.

(i) Ensure that vehicles provided by the Tester for testing purposes:

(A) Meet the safety equipment standards of the Oregon Vehicle Code and federal regulations, and are maintained in good mechanical condition;

(B) Are equipped with a fire extinguisher and three flares or three approved reflectors; and

(C) Are properly registered with the motor vehicle licensing agency in the state in which they are licensed.

(j) Comply with all Oregon statutes, DMV administrative rules and federal regulations related to the CDL Third Party Testing program and with all terms of the CDL Third Party Testing Agreement.

(k) Notify DMV within 24 hours of any:

(A) Notice of a civil legal action related to the administrative of a test that is filed against the Tester or an Examiner associated with the Tester;

(B) Criminal investigation, arrest or conviction for an offense described in OAR 735-060-0030(2)(f)(A), a crime involving moral turpitude or any fraudulent activity related to CDL Third Party testing;

(C) Complaint concerning the CDL Third Party Tester, the CDL Third Party Tester Representative or an Examiner associated with the Tester that is related to CDL testing;

(D) Known or suspected efforts to fraudulently obtain Oregon driving privileges; or

(E) Possible data breach of the Tester's computer or physical files that could result in a person accessing a CDL applicant's personal information.

(L) Maintain and submit records as required by OAR 735-060-0057.

(m) Ensure that before testing a CDL applicant each Examiner administering tests for the Tester complies with the requirements of OAR 735-060-0105(1) excluding subsection (L).

(2) A CDL Third Party Tester must not:

(a) Falsify any records or fraudulently record, or cause to be recorded, passing scores in CSTIMS for any CDL applicant who has not passed a complete CDL skills test according to the procedures in the Oregon CDL Examiner's Manual or who was not tested in accordance with the requirements set forth in OAR 735-060-0120.

(b) Permit anyone except a certified Examiner to administer a CDL skills test or complete a score sheet for the CDL skills test and record, or cause to be recorded, test scores in CSTIMS.

(c) Transfer its CDL Third Party Tester Certificate to any other person.

(d) Assist a person in fraudulently obtaining driving privileges from DMV.

(e) Disclose a CDL applicant's personal information as defined in ORS 802.175, or a CDL applicant's test scores to any person unless authorized by DMV.

(f) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115.

(g) Allow an Examiner to administer a CDL skills test while visibly intoxicated.

(h) Permit an Examiner associated with a commercial truck or bus driver training school to test a driver who has been trained by the Examiner or trained by anyone employed by the school.

(i) Permit an Examiner associated with a Tester with an employer-administered training program to test a CDL applicant who has been trained by that Examiner on any portion of the CDL skills test.

(j) State or imply, or allow anyone associated with the Tester to state or imply, to a CDL applicant that he or she must obtain training from the Tester's commercial truck or bus driver training school prior to or after testing.

(k) Permit an Examiner to change, deviate or modify the test site or on-road drive test route recorded in CSTIMS when the test was scheduled, without prior written approval from DMV, unless there is good cause and notation in CSTIMS, as described in subsection (1)(b) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080
Stat. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0050(9) & (13); DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0057
Record Requirements for CDL Third Party Testers

(1) The Tester must ensure records are maintained at the Tester's primary place of business or by each Examiner at each testing location for no less than the current calendar year and the previous two years from the date of the test.

(2) The Tester must maintain the following records:

(a) A fully completed copy of the CDL test score sheet for each CDL applicant tested, regardless of whether the individual passed or failed the test. To be fully completed the CDL skills test score sheet must contain:

(A) The CDL applicant's full name and driver license number;

(B) Information on the CMV used for the test, including:

(i) Jurisdiction in which the CMV is registered;

(ii) The CMV registration plate number;

(iii) The class and type of CMV; and

(iv) Whether the CMV had airbrakes or air-over-hydraulic brakes, is a passenger-carrying CMV or a school bus, has a manual or automatic transmission, or uses a fifth-wheel hitch system.

(C) CMV insurance information, including the name of the insurance carrier and policy holder and the policy number.

(D) The CDL skills test site and on-road drive route identifiers.

(E) The CDL Third Party Examiner's name.

(F) The time and date of the test and test results.

(G) The signature and date signed by the CDL applicant and the Examiner.

(b) A copy of the CDL applicant's CLP and Oregon driver license presented by the CDL applicant at the time of testing. The CDL applicant's identifying information, including the photo, must be legible on the copy. A Tester or Examiner may not use a copy of the CDL applicant's Oregon CLP or driver license except to identify the CDL applicant for testing purposes and may not disclose a copy for any purpose except as provided in subsection (2) of this rule, OAR 735-060-0040 and the CDL Third Party Tester Agreement.

(c) A signed copy of the receipt, described in OAR 735-060-0105(1)(f)(B), provided to the CDL applicant showing all fees paid to the Tester and Examiner for all services related to a CDL skills test.

(d) A copy of the current Third Party Agreement between the Tester and DMV.

(e) A copy of the current CDL Third Party Tester Certificate and a copy of the CDL Third Party Examiner Certificate for each Examiner associated with the Tester.

(2) All records subject to this rule must be available for inspection by an authorized representative of DMV, the Oregon Secretary of State, or FMCSA, Monday through Friday between the hours of 8:30 a.m. to 4:30 p.m. Records must be available for inspection without an appointment or prior notice. Records may be retained in paper format or electronically, but must be maintained in a manner allowing for timely and efficient retrieval and review.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080
Stat. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0050(10), (11) & (12); DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0090
Qualifications for CDL Third Party Examiner Certificate

(1) To be eligible for a CDL Third Party Examiner Certificate, or to be allowed to maintain a CDL Third Party Examiner Certificate, an individual must meet the following qualifications:

(a) Be at least 21 years of age.

(b) Be an employee of or associated with a CDL Third Party Tester or an applicant for a CDL Third Party Tester Certificate.

(c) Except as provided in subsection (d) of this section, have and maintain a valid Oregon CDL as defined in OAR 735-060-0003(27).

(d) If the individual does not have a valid Oregon CDL, the individual must have a valid CDL issued by another jurisdiction, as defined in OAR 735-060-0003(27). An individual who has not held an Oregon CDL for the required three-year period may be required to submit a certified driving record from any jurisdiction that issued the CDL during that period.

(e) Have the skills and abilities necessary to administer CDL skills tests as described in OAR 735-060-0120.

(f) Not have been convicted of a felony within the last 10 years.

(g) Not have been convicted of a crime involving fraud, false swearing or misrepresentation.

(h) Have successfully completed the CDL Third Party Examiner training course as required in OAR 735-060-0095.

(i) Provide documentation satisfactory to DMV, including a recommendation from a previous employer, of at least one of the following:

(A) At least three years of CMV driving experience;

(B) At least two years of experience as an instructor with a licensed commercial truck driving school;

(C) At least two years of experience training CMV drivers for a private business or government agency; or

(D) At least two years of experience providing testing of CDL drivers for a governmental licensing agency.

(2) An individual is not eligible for a CDL Third Party Examiner Certificate, or will not be allowed to maintain a CDL Third Party Examiner Certificate, if:

(a) The individual is enrolled or participating in a DUII diversion program, or has restricted or suspended driving privileges under a driver improvement program, including an equivalent diversion or driver improvement program in another jurisdiction. This section will apply if the individual was enrolled or participating in a diversion program or his or her driving privileges were restricted or suspended under a driver improvement program anytime within the three years preceding the date an application for a CDL Third Party Examiner Certificate is submitted to DMV.

(b) The individual has been convicted of any traffic crime. This subsection does not apply if the conviction occurred more than five years preceding the date an application for a Third Party Examiner Certificate is submitted to DMV if the traffic crime is a misdemeanor or ten years if the traffic crime is a felony.

(c) The individual has been issued a CDL Third Party Tester or CDL Third Party Examiner Certificate by DMV that is currently revoked or suspended.

(d) The individual has been issued a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate by another jurisdiction, that is currently revoked or suspended, or that was revoked, involuntarily canceled or suspended within the five years preceding the date an application for a CDL Third Party Examiner Certificate is submitted to DMV.

(e) The individual has been terminated from employment with a state driver licensing agency, CDL Third Party Tester or equivalent, a Driver Training School or equivalent in any jurisdiction, for a cause related to fraud or any other reason if DMV determines from the facts and circumstances of the termination that the individual is not fit to perform the duties of an Examiner or poses a risk to the safety of others while performing those duties.

(f) The individual has engaged in conduct that is substantially related to the person's fitness to hold a CDL Third Party Examiner Certificate and which demonstrates unfitness and inability to perform the duties of an Examiner.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 18-1986, f. & ef. 10-16-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0670; MV 24-1988, f. & cert. ef. 7-1-88; MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0095
CDL Third Party Examiner Training

(1) An applicant for a CDL Third Party Examiner Certificate must successfully complete the CDL Third Party Examiner initial training course as required by DMV as part of the application process. This initial training course includes the CSTIMS Privacy Awareness Training.

(2) Each Examiner must successfully complete a refresher training course and examination at least every four years. DMV may require an Examiner to successfully complete the refresher training course and examination more frequently than every four years, based on a review of the Examiner's records and testing procedures.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0100
Application for and Issuance of a CDL Third Party Examiner Certificate

(1) To apply for a CDL Third Party Examiner Certificate an applicant must:

(a) Meet all the qualifications set forth in OAR 735-060-0090;

(b) Authorize DMV to conduct a nationwide criminal background check.

(c) Submit a completed Application for a CDL Third Party Examiner Certificate, Form 6767 to: DMV, CDL Third Party Testing, 1905 Lana Ave NE, Salem, Oregon 97314. To be complete, the application must be signed by the applicant for the Third Party Examiner Certificate and by a CDL Third Party Tester, CDL Third Party Tester Representative, or an applicant for a CDL Third Party Tester Certificate.

(2) Upon successfully completing the application process, DMV will issue a CDL Third Party Examiner Certificate to an Examiner that includes the name of the Tester for which the Examiner will administer CDL skills tests.

(3) Unless cancelled, suspended or revoked, a CDL Third Party Examiner Certificate is valid as long as the Examiner is administering tests for a Tester.

(4) The Examiner must immediately return the CDL Third Party Examiner Certificate, score sheets, blank receipts, and Oregon CDL Examiner's Manual to DMV or the Tester when the Examiner is no longer associated with the Tester named on the CDL Third Party Examiner Certificate.

(5) DMV will cancel a CDL Third Party Examiner Certificate upon request of the Tester for whom the Examiner administers tests.

(6) DMV will issue a replacement CDL Third Party Examiner Certificate if the Examiner certifies that the original certificate has been lost, mutilated or destroyed. To apply for a replacement CDL Third Party Examiner Certificate, the Examiner must submit a written request indicating the reason for the replacement to: DMV, CDL Third Party Testing, 1905 Lana Avenue NE, Salem, OR 97314.

(7) DMV will issue an additional CDL Third Party Examiner Certificate when an Examiner is administering tests for more than one CDL Third Party Tester. DMV will issue a new CDL Third Party Examiner Certificate when an Examiner stops administering tests for one Tester and begins administering tests for a different Tester. To obtain an additional or new certificate, the Examiner must:

(a) Meet all the qualifications set forth in OAR 735-060-0090; and

(b) Submit a completed Application for a CDL Third Party Examiner Certificate, Form 6767, as described in subsection (1)(c) of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 18-1986, f. & cert. ef. 10-16-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0680; MV 24-1988, f. & cert. ef. 7-1-88; MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0101
Refusal to Issue a CDL Third Party Examiner Certificate

(1) DMV may not issue a CDL Third Party Examiner Certificate to any individual when DMV determines that:

(a) Information contained in the application is false;

(b) The person fails to meet any qualification for certification required by these rules; or

(c) Issuance of the certification to a specific person may compromise the integrity of the CDL Third Party Testing Program.

(2) DMV may not process any application for a CDL Third Party Examiner Certificate if any portion of the application is missing or incomplete.

(3) If DMV refuses to issue a CDL Third Party Examiner Certificate, the person is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) A person must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a CDL Third Party Examiner Certificate, pending the outcome of the hearing.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0105
Duties of a CDL Third Party Examiner

(1) An Examiner must:

(a) Meet qualifications set forth in OAR 735-060-0090 throughout the period the Examiner holds the CDL Third Party Examiner Certification.

(b) Properly complete all forms and reports required by DMV.

(c) Administer all CDL skills tests as set forth in OAR 735-060-0120.

(d) Administer CDL skills tests only for the class and type of CMVs authorized by DMV on the CDL Third Party Examiner Certificate.

(e) Record scores in CSTIMS only for the class of CDL, including endorsements and restrictions, for which the CDL applicant was tested;

(f) Comply with the following requirements before administering a CDL skills test:

(A) Obtain a copy of the applicant's unexpired Oregon CLP and unexpired Oregon driver license. The CLP must have been issued at least 14 days prior to the date of testing. The CDL applicant's identifying information, including the photo, must be legible on the copy; and

(B) Provide the CDL applicant a receipt for the fees the CDL applicant paid for all services relating to the CDL skills test, including but not limited to, fees for the CDL skills test, travel time or distance, and vehicle rental. A fee may be collected only for those services listed on the schedule submitted to DMV under OAR 735-060-0030(1)(L). The receipt must be on a standard receipt form provided to the CDL Tester by DMV or, if not on the DMV form, the receipt must contain the same information as on the DMV form. The receipt must be signed by both the CDL applicant and the Examiner. A receipt need not be provided when the Examiner is administering a test for the Oregon Department of Education or to an employee of the Tester.

(g) Successfully complete any additional training when required by DMV, with the Tester or Examiner responsible for all associated costs.

(h) Comply with all Oregon statutes, DMV administrative rules, and federal regulations pertaining to the qualifications and duties of a CDL Third Party Examiner.

(i) Administer all three portions of the CDL skills tests to a minimum of 10 different CDL applicants during each calendar year. If an Examiner does not meet that minimum during a calendar year, the Examiner must complete refresher training.

(j) Be present during any DMV, Oregon Secretary of State, or FMCSA inspection of CDL Third Party Tester records if requested by DMV.

(k) Only administer CDL skills tests for the Tester named on the Examiner's CDL Third Party Examiner Certificate.

(L) Notify the Tester within 24 hours of any notice of a civil legal action, a criminal investigation or arrest, or any complaint concerning administration of a CDL skills test or conviction of a traffic crime by the Examiner.

(m) Report to DMV in CSTIMS all scheduled CDL skills tests at least 48 hours prior to administration of the test. The test schedule must include;

(A) The CDL applicant's name and Oregon driver license number;

(B) The class, issue and expiration dates, and endorsements on the CLP;

(C) The Examiner's name;

(D) The date and time of each portion of the CDL skills test;

(E) The class and type of vehicle to be used for the test; and

(F) Identification of the test site and on-road drive test route.

(n) Unless prior approval is obtained from DMV, only administer a CDL skills test that has been scheduled at least 48 hours prior to the administration of the test.

(o) Notify DMV of changes to the test site, on-road drive test route or test time that occur after submission of the schedule. The Examiner must notify DMV if a CDL skills test is canceled for any reason.

(p) Report to DMV in CSTIMS the results of all CDL skills tests within 24 hours of administering the test. The results must include:

(A) The date of the test;

(B) The actual start and end times of each portion of the test;

(C) The test score or reason for an immediate failure or cancellation if applicable.

(D) Information on the vehicle used for the test, including the following:

(i) The jurisdiction in which the CMV is registered;

(ii) The CMV registration plate number;

(iii) The class and type of CMV;

(iv) Whether the CMV has airbrakes or air-over-hydraulic brakes, was a passenger-carrying CMV or a school bus, had a manual or automatic transmission, or used a fifth-wheel hitch system.

(2) An Examiner must not:

(a) Record or cause to be recorded scores on CSTIMS for any CDL applicant:

(A) If the Examiner did not administer the CDL skills test to the CDL applicant;

(B) If the Examiner did not administer a CDL skills test meeting the requirements of OAR 735-060-0120 to the CDL applicant;

(C) Showing the CDL applicant passed the CDL skills test, when in fact the CDL applicant did not pass the test; or

(D) Who is known not to have valid driving privileges. Acceptable evidence of valid driving privileges is the CDL applicant presenting an unexpired Oregon driver license and an unexpired Oregon CLP that was issued no less than 14 days prior to the date of the test.

(b) Make any changes to, deviations from, or modifications to a test site or an on-road drive test route unless there is good cause for such change, deviation or modification due to an unexpected closure or safety issue that could not be anticipated by the Tester or Examiner. Good cause includes, but is not limited to, an accident, downed trees or power lines, flooding, or unannounced construction. Any change, deviation or modification to the test site or on-road drive test route must be noted in CSTIMS along with an explanation of the cause for the change, deviation or modification.

(c) Falsify any records.

(d) Administer CDL skills tests without a valid CDL Third Party Examiner Certificate issued by DMV.

(e) Transfer his or her CDL Third Party Examiner Certificate to any other individual.

(f) Assist a person in fraudulently obtaining driving privileges from DMV.

(g) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115.

(h) Allow any CDL applicant to take a CDL skills test if the Examiner has reason to believe the CDL applicant is visibly intoxicated.

(i) Test a relative or personal friend or knowingly test a relative or friend of the Tester or any owner or employee of the Tester.

(j) Administer a CDL skills test to a CDL applicant who does not possess a valid Oregon driver license along with a valid Oregon CLP that was issued at least 14 calendar days prior to the date of the test.

(k) Administer a CDL skills test when the CDL Third Party Tester Certificate of the Tester for whom the Examiner administers tests is no longer valid.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0100(8), (9) & (10); DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0115
Code of Ethics and Rules of Conduct

(1) A CDL Third Party Tester, CDL Third Party Tester Representative and CDL Third Party Examiner must adhere to the highest standards of professional conduct. The standards of professional conduct for a Tester, Representative and Examiner must be consistent with the standards of professional conduct expected of a person employed by DMV who administers CDL skills tests. Therefore, DMV requires Testers, Representatives and Examiners to be professional and respectful in all dealings with CDL applicants and others while ensuring the safety of Oregon roads.

(2) A Tester, Representative or Examiner will not engage in or allow any owner, agent, manager or employee to engage in any of the following:

(a) Assisting or allowing a CDL applicant to fraudulently:

(A) Receive a passing score for a CDL skills test when the CDL applicant failed the test, did not take the test, did not take the complete test, or took a test that was not administered as required by OAR 735-060-0120; or

(B) Obtain driving privileges for which the CDL applicant is ineligible or has not qualified.

(b) Discrimination against any CDL applicant on the basis of race, religion, national origin, disability, age, sex or sexual orientation.

(c) Accepting or requiring anything of value, other than the posted fee, from a CDL applicant.

(d) Offering a bribe to or colluding with a DMV employee when it is evident from the circumstances that the attempt is for the purpose of influencing the results of a DMV inspection or evaluation.

(e) Having sexual relations with or requesting sexual relations from a CDL applicant. For purposes of this section, "sexual relations" means:

(A) Sexual intercourse; or

(B) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party.

(f) Using physical force or a threat of physical force against a CDL applicant, unless such force or threat is necessary to avoid immediate danger to the safety of the CDL applicant, the Examiner, a DMV employee, employees of the CDL Third Party Tester or other individuals.

(g) Possessing any unlawful controlled substance, inhalant, intoxicating beverage or being visibly intoxicated while administering a CDL skills test.

(h) Falsifying any document or making a misrepresentation on a CDL Third Party Examiner or CDL Third Party Tester application or in any document that relates to any testing activity.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.080

Hist.: DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0120
The CDL Skills Test

(1) The CDL skills test is a three-part test of an individual's skills to safely operate a CMV. The three parts are the pre-trip vehicle inspection test, the basic control skills test, and the on-road drive test.

(2) DMV adopts the following FMSCA regulations in effect on September 26, 2016, and prescribes that these regulations establish the standards that must be followed in the administration of a CDL skills test:

(a) 49 CFR sec. 383.71, Driver Applicant and Certification Procedures;

(b) 49 CFR sec. 383.75, Third Party Testing;

(c) 49 CFR sec. 383.110 through sec. 383.123, Required Knowledge and Skills; and

(d) 49 CFR sec. 383.131 through sec. 383.135, Tests.

(3) The CDL skills test must be administered by a certified CDL Third Party Examiner. The Examiner must:

(a) Not administer more than six CDL skills tests within a single calendar day.

(b) Begin and end all CDL skills tests during daylight hours.

(c) Administer all CDL skills tests within the State of Oregon.

(d) Administer all portions of the CDL skills test in the same type and class of commercial vehicle.

(e) Complete all portions of the CDL skills test on the same calendar day unless the CDL applicant passed the pre-trip vehicle inspection portion of the test as described in section (8) of this rule.

(f) Not administer another CDL skills test until after the minimum waiting period set forth in OAR 735-062-0070(8) has passed, if the CDL applicant fails any part of the CDL skills test.

(g) Administer the CDL skills test using the test scoring sheets approved by DMV.

(h) Not permit any person who is not an Examiner, an official with DMV, an official with FMSCA or the CDL applicant being tested to observe or participate in a CDL skills test without the prior approval of DMV.

(i) Administer all portions of the CDL skills test in English.

(4) A CDL skills test must not be administered if the Examiner has reason to believe that the CDL applicant's driving privileges are suspended, revoked, canceled or have otherwise been withdrawn.

(5) The CDL skills test must be administered in accordance with the federal regulations adopted by section (2) of this rule and the methods and procedures set forth in the Oregon CDL Examiner's Manual. The CDL skills test must include, but is not limited to, the following:

(a) A pre-trip vehicle inspection test. This part of the CDL skills test must be administered first and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to identify and operate the equipment on the vehicle in which the CDL applicant is being tested and to detect and identify unsafe vehicle equipment items as described in the Oregon Commercial Driver Manual. The specific items that must be inspected during a pre-trip inspection are those listed in the Oregon CDL Examiner's Manual.

(b) A basic control skills test. This part of the CDL skills test must be administered after the CDL applicant has successfully completed the pre-trip vehicle inspection test and prior to the on-road drive test, and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing or parking maneuvers. The specific exercises that must be performed and the course layout that must be used during a basic control skills test are those described in the Oregon CDL Examiner's Manual.

(c) An on-road drive test. This part of the CDL skills test, which must be administered after successful completion of the basic control skills test, is designed to evaluate the CDL applicant's competency to safely operate a commercial motor vehicle or combination of commercial vehicles under actual driving conditions.

The CDL applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:

(A) It must be administered on the scheduled on-road drive test route, except as provided in OAR 735-060-0105(2)(b).

(B) The commercial motor vehicle or combination of commercial vehicles must be of the class for which the CDL applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. The Examiner is not required to verify the safe condition of any commercial motor vehicle provided by the CDL applicant for an on-road drive test, but must not administer the test if it is apparent the vehicle cannot be operated safely and legally.

(C) The CMV or combination of CMVs must not be loaded, but the test must be administered and scored as if the CMV or combination of CMVs is loaded.

(6) DMV will approve an on-road drive test route if DMV determines that it:

(a) Enables the CDL Third Party Examiner to evaluate the ability of the CDL applicant to perform the maneuvers listed in the Oregon CDL Examiner's Manual; and

(b) Meets the specifications for an on-road drive test for a CDL set forth in the Oregon CDL Examiner's Manual.

(7) DMV may determine that a previously approved on-road drive test route is no longer approved if DMV learns that due to road or traffic conditions, trying to perform necessary maneuvers at a certain point on the route may be unsafe. DMV will notify a Tester that a route may no longer be used for an on-road drive test unless a new or modified route is submitted to and approved by DMV.

(8) A passing score for the pre-trip vehicle inspection portion of the CDL skills test will remain valid as described in OAR 735-063-0260(9) if the CDL applicant passes that portion of the CDL skills test but fails, for any reason, the basic control skills test portion or the on-road drive test portion.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0710; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 3-2006, f. 3-17-06, cert. ef. 4-15-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 20-2010, f. 11-19-10, cert. ef. 1-1-11; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0130
Recording of Test Scores in CSTIMS

(1) When a CDL Third Party Examiner, CDL Third Party Tester, CDL Third Party Tester Representative, or other employee of a Tester enters scores into CSTIMS that show the CDL applicant passed the CDL skills test, DMV will accept that action as certification by the Tester that the CDL applicant is competent to drive the class of commercial motor vehicle used in the test.

(2) Passing test scores will be accepted by DMV only when entered on CSTIMS for a CDL applicant who:

(a) Has passed a CDL skills test meeting the standards set forth in OAR 735-060-0120;

(b) Has valid driving privileges, including a CLP that was issued at least 14 calendar days prior to the date of the CDL skills test, and has passed the necessary CDL knowledge tests and vision screening. A hardship or probationary permit does not constitute valid driving privileges; and

(c) Is applying for a Class A, B, or C CDL, an endorsement on a CDL, or removal of a restriction on a CDL, within six months of passing the required skills test(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0720; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 16-2010, f. 9-27-10, cert. ef. 9-30-10; DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

735-060-0145
CDL Third Party Tester and CDL Third Party Examiner Sanctions

(1) DMV may impose a sanction on a Tester or Examiner if DMV determines a Tester or Examiner has violated any provision related to CDL third party testing described in the Oregon Vehicle Code or these Division 60 rules.

(2) DMV will impose a sanction determined by DMV to be appropriate for the particular violation. DMV may consider one or more of the following criteria, as it deems appropriate, to determine what sanction or sanctions, if any, may be imposed upon concluding that a violation has occurred:

(a) The severity of the violation;

(b) The possible impact of the violation on public safety;

(c) The possible impact of the violation on the integrity of the CDL Third Party Testing program;

(d) The possible impact of the violation on the security of a CDL applicant's personal information;

(e) The total number of violations by the Tester or Examiner;

(f) Whether the violation is an isolated occurrence, part of a continuing pattern, or one of a series of violations;

(g) Whether the violation was willful or committed negligently by a Tester or Examiner who, when considering the Tester's or Examiner's training and experience, should have known the action to be in violation of the provisions of the CDL Third Party Testing program;

(h) The history of the Tester's or Examiner's prior violations;

(i) The Tester's or Examiner's past performance;

(j) Any extenuating circumstances or other factors bearing on the appropriate nature of a sanction; and

(k) The history of prior sanctions imposed by DMV on other Testers or Examiners for a similar violation.

(3) DMV may cancel a CDL Third Party Tester's Certificate if DMV learns that the Tester does not continue to meet all qualifications required in OAR 735-060-0030. DMV may cancel a CDL Third Party Examiner's Certificate if DMV learns that the CDL Third Party Examiner does not continue to meet all qualifications required in OAR 735-060-0060.

(4) DMV may suspend a CDL Third Party Tester Certificate or a CDL Third Party Examiner for a period of no less than 30 calendar days and no more than one year. The following are examples of violations that may result in suspension:

(a) Public Safety – A public safety violation includes, but is not limited to:

(A) Failing to follow the methods and procedures set forth in the Oregon CDL Examiner's Manual;

(B) Failing to test only at approved sites and on approved routes as described in these Division 060 rules;

(C) Failing to test in a vehicle that corresponds to the license for which the CDL applicant applied; and

(D) Allowing a CDL applicant to test in an unsafe vehicle.

(b) Integrity of the CDL Third Party program — An integrity violation includes, but is not limited to:

(A) Conducting business in a manner that reasonably makes a CDL applicant feel intimidated;

(B) Conducting business in a manner that causes a CDL applicant to pay additional fees or fees that are not required for the services requested;

(C) Entering inaccurate or false information into CSTIMS; or

(D) Failing to ensure the CDL applicant tested is the same individual applying for a CDL.

(c) Security of personal information — A security violation includes, but is not limited to, failing to maintain proper security of records that must be retained as part of the CDL Third Party Testing program.

(d) Multiple minor violations observed in a single inspection.

(e) Failing to correct the conduct or circumstances underlying a violation communicated to the Tester or Examiner in a written warning, including those communicated on correction notices or inspection reports, resulting in the continued occurrence of the same or a similar violation.

(5) DMV may impose an immediate suspension of the CDL Third Party Tester Certificate or the CDL Third Party Examiner Certificate in accordance with the provisions of ORS 183.430.

(6) DMV may impose a revocation of the CDL Third Party Tester Certificate or of the CDL Third Party Examiner Certificate for no less than one year and no more than five years. DMV may impose a revocation upon review of the criteria described in this rule if the Tester or Examiner:

(A) Fails to correct violations that have led to previous suspensions;

(B) Commits multiple violations, that individually would otherwise result in a suspension, that are observed during one or more inspections; or

(C) The violation is severe or has a significant negative impact on public safety.

(7) DMV may impose a permanent revocation of the CDL Third Party Tester Certificate or the CDL Third Party Examiner Certificate if DMV determines the Tester or the Examiner participated in fraudulent or criminal activity or has violated any provision of the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115(2).

(8) A Tester or Examiner whose certificate has been suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(9) When DMV proposes to sanction a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate, DMV will send a written notice that the sanction begins 30 calendar days from the date the notice is issued, with the exception of an immediate suspension described in subsection (5) of this rule. The notice will be served by certified mail sent to the Tester's or Examiner's most recent address on record with DMV.

(10) Except as provided for in section (11) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 calendar days of the date DMV issues the notice. If a hearing request is received in a timely manner the sanction will not go into effect pending the outcome of the hearing.

(11) If the certificate is immediately suspended as set forth in subsections (5) of this rule, the request for hearing must be submitted in writing to, and received by, DMV within 90 calendar days of the date of the notice of suspension. The suspension will remain in effect pending the outcome of the hearing.

(12) Except as provided in OAR 137-003-0528, when no request for a hearing is timely received, the Tester or Examiner has waived the right to a hearing and the notice becomes the final order by default.

(13) If a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate has been revoked, the Tester or Examiner must reapply for an original certificate after the period of revocation and must meet all the qualifications set forth in OAR Chapter 735, Division 60 rules.

(14) At the end of the suspension period of a CDL Third Party Tester Certificate, the CDL Third Party Tester Certificate is valid unless the certificate has expired. If the certificate has expired, the Tester must reapply for an original certificate and must meet all the qualifications set forth in OAR 735-060-0030.

Stat. Auth.: ORS 184.616, 184.619 & 807.080
Stats. Implemented: ORS 807.040, 807.070 & 807.100
Hist.: DMV 5-2016, f. 9-22-16, cert. ef. 9-26-16

DIVISION 61

THIRD PARTY TESTING FOR CLASS C DRIVER LICENSE

735-061-0210
Purpose

(1) The purpose of these rules, OAR 735-061-0210 through 735-061-0390 is to establish criteria by which a third party testing business is authorized to have its examiners give a drive test to a Class C driver license applicant on behalf of DMV.

(2) The rules are written under the authority of ORS 802.600 allowing the department to enter into an agreement with a person who is not an employee of the department to transact a function on behalf of the department.

(3) These rules are adopted to establish a pilot program. The pilot program will continue for as long as necessary for DMV to establish a permanent program or to determine that DMV no longer wants to operate a Third Party Class C non-commercial program, if such a program is not administratively viable or that operating the program is not in the best interests of public safety.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14; DMV 1-2016, f. & cert. ef. 4-29-16; DMV 6-2016(Temp), f. 10-19-16, cert. ef. 10-31-16 thru 4-28-17

735-061-0220
Definitions

(1) The following definitions apply to terms in OAR 735-061-0210 through 735-061-0390:

(a) "Certificate of Test Completion" means a document issued to an applicant for a Class C license by a third party examiner that certifies that the applicant has successfully passed a drive test.

(b) "Class C Third Party Examiner Certificate" means a document issued by DMV that authorizes a third party examiner to conduct, on behalf of DMV, a drive test to an applicant for a Class C driver license and issue a Certificate of Test Completion.

(c) "Class C Third Party Testing Agreement" means a written and enforceable agreement between a Class C third party testing business and the Oregon Department of Transportation.

(d) "Class C Third Party Testing Business Certificate" means a document issued by DMV that authorizes a third party testing business to administer, on behalf of DMV, a drive test for applicants for a Class C driver license.

(e) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(f) "Employee" means an individual who provides personal services to and is under the direction and control of another for compensation. For purposes of these rules, this definition does not include an independent contractor.

(g) "Entity" as used in these rules means:

(A) An individually owned business;

(B) A company;

(C) A corporation;

(D) An association;

(E) A cooperative;

(F) A federal, state, county or municipal agency, including a publicly owned and operated educational facility and the Oregon Department of Education;

(G) An individual;

(H) A firm; or

(I) A partnership.

(h) "Immediate family" means the applicant's spouse or partner in a domestic relationship; children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.

(i) "Member of the household" means an individual who lives in the same residence.

(j) "TSD" means the Transportation Safety Division of the Oregon Department of Transportation.

(k) "Third party examiner" means any individual who is issued a Class C Third Party Examiner Certificate by DMV.

(l) "Third party testing business" means an entity issued a Class C Third Party Testing Business Certificate.

(2) The definition "employee" is only applicable as used in OAR 735-061-0210 through 735-061-0370. It is not intended to affect any employer or employee rights, responsibilities or obligations.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0230
Pilot Program For Class C Third Party Testing — General Provisions

(1) DMV may invite entities it views qualified to participate in this Class C Third Party Testing Pilot Program.

(2) If an invited entity is interested in participating in the pilot program it must apply for a Class C Third Party Testing Business Certificate under OAR 735-061-0260.

(3) During the pilot program, DMV will certify only a limited number of examiners per testing business. Only a certified examiner may administer the Class C drive test.

(4) A third party testing business may replace a third party examiner who is no longer employed or whose certificate has been suspended if DMV has the capacity to provide the required training.

(5) DMV will accept a test score but will be unable to issue a license upon receipt of the Certificate of Test Completion if the applicant has not provided DMV all required proof that the applicant is eligible to be issued a license. If DMV accepts a test score but is unable to issue a license to the applicant at that time, the test score remains valid for two years.

(6) DMV will reject a test score if:

(a) The applicant does not take the Certificate of Test Completion to DMV within 30 days of the date of the test;

(b) The applicant was not 16 years of age or older at the time of the test;

(c) The applicant had not observed the necessary waiting period, described in OAR 735-062-0070, following a test failure;

(d) The applicant's right to apply for driving privileges was suspended, revoked or cancelled at the time of the test;

(e) The envelope containing the Certificate of Test Completion appears to have been opened or the Certificate of Test Completion appears to have been altered; or

(f) There is no copy of the applicant's photo identification in the envelope or the copy of the photo identification in the envelope is not of the person at the counter at DMV.

(g) In addition, for a person under 18 years of age, DMV will reject a test score if the applicant has not held an instruction permit for a minimum of six months at the time of the test.

(7) If DMV rejects a test score the person must retest at a time and in a manner that results in an acceptable test score before DMV may issue a license.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0240
Class C Third Party Testing Agreement

(1) A Class C third party testing business and DMV must enter into a Third Party Testing Agreement declaring the rights and responsibilities of DMV and the third party testing business.

(2) The terms of the agreement begin upon execution of the agreement by all parties and expire at the end of the pilot program authorized in these rules.

(3) If the program continues beyond the pilot stage, the Class C third party testing business may enter into a new agreement with DMV by meeting all qualifications and requirements described in the new agreement.

(4) The agreement may be terminated by DMV if:

(a) The authorized representative of the Class C third party testing business made a false statement or intentional misrepresentation of facts in an application for a Class C Third Party Testing Business Certificate;

(b) The Class C Third Party Testing Business Certificate is suspended, revoked, canceled or voluntarily withdrawn; or

(c) DMV ends this pilot program, for any reason.

(5) A Class C Third Party Testing Business may terminate the agreement with DMV if it no longer wishes to participate in this pilot program. To terminate the agreement the Class C Third Party Testing Business must:

(a) Notify DMV, Driver Programs Section, in writing that it will stop conducting tests at the end of business on a specific date that is at least three days after the notice is received by DMV;

(b) Return to DMV, Driver Programs Section, all unused Certificates of Test Completion; and

(c) Agree to an inspection of all records regarding the Class C third party testing business within 10 days after terminating the agreement.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0250
Qualifications for a Class C Third Party Testing Business

To qualify as Class C third party testing business during this pilot program, an entity must:

(1) Hold a valid, current commercial driver training school certificate issued under ORS 822.515 and in accordance with OAR Chapter 735, Division 160;

(2) Have continuously operated the commercial driver training school described in section (1) of this rule for a minimum of two years immediately prior to submitting an application for a Class C Third Party Testing Business Certificate.

(3) Be the provider of a traffic safety education course that is certified under ORS 802.345 and in accordance with OAR Chapter 737, Division 15;

(4) Have continuously provided the traffic safety education course described in section (3) of this rule for a minimum of 18 months immediately prior to submitting an application for a Class C Third Party Testing Business Certificate.

(5) Have one or more DMV approved Class C drive test routes that meet the specifications provided by DMV;

(6) Have an owner who is certified as a Class C third party examiner or is applying for certification as a Class C third party examiner or employs a certified Class C third party examiner or applicant for a Class C Third Party Examiner Certificate. For purposes of this rule, owner does not include a shareholder of a corporation;

(7) Pass an inspection by DMV as described in OAR 735-061-0360(1);

(8) Sign and abide by all terms of a written Class C Third Party Testing Agreement with DMV as described in OAR 735-061-0240; and

(9) Be in compliance with all state and local business laws or regulations.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0260
Application for a Class C Third Party Testing Business Certificate

(1) To apply for a Class C Third Party Testing Business Certificate, the entity must submit the following to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314:

(a) A completed application for a Class C Third Party Testing Business Certificate, DMV Form 735-7173;

(b) The original Class C Third Party Testing Agreement, signed by the entity applying or the entity's authorized representative;

(c) Proof of comprehensive commercial liability insurance and proof of comprehensive auto liability insurance, if applicable, that meets the requirements specified in the Class C Third Party Tester Agreement.

(d) One or more proposed drive test route which meets the criteria provided by DMV;

(e) The name of any individual who will apply for certification as a Class C third party examiner; and

(f) The name and address of the third party testing business's designated or registered agent for service of notices, documents or process.

(2) A Class C Third Party Testing Business Certificate is non-transferable.

(3) A false statement or intentional misrepresentation of facts in any Class C third party testing business application is grounds for denying the application, revoking certification or terminating an agreement.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0270
Refusal to Issue Class C Third Party Testing Business Certificate

(1) DMV may not issue a Class C Third Party Testing Business Certificate to any entity when:

(a) DMV determines that information contained in the application is false.

(b) DMV determines that the entity fails to meet any qualification for certification required by these rules.

(2) DMV may not process any application for a Class C Third Party Testing Business Certificate if any portion of the application is incomplete.

(3) If DMV refuses to issue a Class C Third Party Testing Business Certificate, the entity is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) An entity must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate; pending the outcome of the hearing.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0280
Responsibilities of a Class C Third Party Testing Business

(1) A Class C third party testing business must:

(a) Allow representatives of DMV to conduct random inspections without prior notice;

(b) Provide DMV a copy of the fees it will charge for conducting tests. If the business changes fees during the pilot it must notify DMV within 5 working days;

(c) Notify DMV in writing within 10 working days of any third party examiner who has discontinued employment;

(d) Notify DMV as described in OAR 735-061-0240(5) if it no longer wishes to participate in this pilot program and will no longer conduct drive tests on behalf of DMV;

(e) Notify DMV within 24 hours after a disqualifying event occurs that the third party testing business no longer meets the qualification requirements set forth in OAR 735-061-0250; or a third party examiner no longer meets the qualification requirements set forth in OAR 735-061-0290;

(f) Ensure that all Class C third party examiners employed by the Class C third party testing business remain in compliance with all administrative rules governing third party examiners;

(g) Notify DMV within 24 hours upon receipt of notice that the third party testing business, any third party examiner employed by the testing business or any owner certified as a third part examiner is the subject of a civil legal action, criminal investigation, arrest or conviction, enrolled in a DUII diversion program, received a complaint related to the administration of a test, or has received any suspension, revocation, cancellation or disqualification of driving privileges;

(h) Notify DMV within 24 hours of any possible data breach of the third party testing business' computer or physical files that could result in a person accessing an applicant's personal information;

(i) If requested, respond to any person who submits a complaint to DMV within 10 working days from the date the third party testing business receives notice of complaint. If the response is in writing, provide DMV a copy of the response. If the response is verbal, provide a written summary to DMV of the conversation that took place;

(j) Correct any deficiency identified by an inspector during an on-site inspection within 30 calendar days of the date notice of deficiency is issued by DMV;

(k) Comply with all statutes, administrative rules related to the Class C Third Party Testing Program and with all terms of the Class C Third Party Testing Agreement;

(l) Maintain all qualification requirements set forth in OAR 735-061-0250;

(m) Inform any applicant denied testing services under section (4)(c) of this rule that the applicant may request to be tested by DMV;

(n) Report to DMV:

(A) Daily — Prior to 4:00 p.m. — Any and all drive tests scheduled for the following day. Prior to 4:00 p.m. on Friday — Any and all drive tests scheduled for the following Saturday or Sunday. The test schedule report must include the applicant's name and date of birth, the examiner name, the date and time of the scheduled test and the drive test route that will be used (if the testing business has more than one approved drive test route);

(B) Daily — Prior to 8:00 a.m. — Any and all failed drive tests conducted the prior day. Prior to 8:00 a.m. on Monday — Any and all failed drive tests conducted on Friday, Saturday or Sunday. The report must list the name, date of birth and test score of any applicant who failed a drive test; and

(C) Monthly — By the 5th day of the month — Submit a copy of a monthly log which must include information on all applicants tested the previous month including the driver's name and date of birth, test score, examiner name and examiner's certificate number, the Certificates of Test Completion issued including any that are voided;

(2) A third party testing business must maintain the following records:

(a) A copy of the photo identification viewed of each applicant tested.

(b) A copy of the fully completed test score sheet (DMV form 735-7171) for each applicant tested, regardless of whether the applicant passed or failed the test. To be fully completed the test score sheet must contain the applicant's full name and date of birth, the drive test route (if business has more than one), the third party examiner's name as well as the test date and test results.

(c) A copy of the fully completed Certificate of Test Completion that was issued to each applicant who passed or failed the test. To be fully completed, the Certificate of Test Completion must contain: the applicant's full name and date of birth; the third party examiner's name, certificate number, signature and date signed; the third party testing business' name; the date of the test and the applicant's signature and date signed.

(d) A copy of the receipt provided to each applicant who tested showing all fees paid.

(e) Copies of all Certificates of Test Completion that have been voided by the third party examiner.

(f) A copy of the monthly log. The monthly log must contain the applicant's name and date of birth, test score, third party examiner name and certificate number and the number of the Certificate of Test Completion issued if the applicant passed the test.

(g) A copy of any Drive Test Fail Report sent to DMV.

(3) A third party testing business must maintain all records required for at least two years from the date a test was administered as follows:

(a) The records must be kept at the Class C third party testing business' place of business;

(b) If the Class C third party testing business decides to withdraw from this pilot program, the records must be maintained by the designated or registered agent of the third party testing business and must be kept at a location that is convenient to, and accessible for inspection by, DMV; and

(c) The third party testing business or the designated or registered agent must immediately notify DMV in writing if the location of records required to be maintained is changed.

(4) A third party testing business must not:

(a) Falsify any records related to the Class C third party testing business' participation in the program;

(b) Permit anyone except a certified Class C third party examiner to conduct a drive test;

(c) Test an applicant whose requirement to test is due to being in the Medically At-Risk Driver Program or who has a mental or physical condition or impairment that may affect the applicant's ability to safely operate a motor vehicle safely upon the highways;

(d) Ask or allow a Class C third party examiner to test an applicant to whom the examiner provided behind-the-wheel driving training;

(e) Ask or allow a Class C third party examiner to test an applicant who is an immediate family member or a member of the household of an owner or any employee of the Class C Third Party testing business;

(f) Disclose an applicant's personal information as defined in ORS 802.175, or an applicant's test scores to any person unless authorized by DMV;

(g) Transfer the Class C Third Party Testing Business Certificate to any other entity or person; or

(h) Issue, or allow any employee to issue, passing test scores to any applicant who:

(A) Was not tested in accordance with OAR 735-061-0370; or

(B) Failed the test.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0290
Qualifications for Class C Third Party Examiners

To qualify as a Class C third party examiner during this pilot program, a person must meet the following:

(1) Be an owner or employee of a third party testing business. For purposes of this section, owner does not include a shareholder of a corporation;

(2) Be certified as a Commercial Driver Training School Instructor in accordance with OAR 735-160-0075;

(3) Be an approved ODOT-TSD traffic safety education instructor in accordance with OAR 737-015-0070; and

(4) Have enrolled in or successfully completed the Class C third party examiner training course as set forth in OAR 735-061-0340.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0300
Application for a Class C Third Party Examiner Certificate

(1) To apply for a Class C Third Party Examiner Certificate the person must:

(a) Submit a completed application for a Class C Third Party Examiner Certificate, DMV Form 735-7174, to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314; and

(b) Meet all the qualification requirements set forth in OAR 735-061-0290.

(2) Class C Third Party Examiner Certificates are non-transferable.

(3) A false statement or intentional misrepresentation of facts in any Class C Third Party Examiner application is grounds for denying the application or revoking certification.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0310
Refusal to Issue Class C Third Party Examiner Certificate

(1) DMV may not issue a Class C Third Party Examiner Certificate to any person when:

(a) DMV determines that information contained in the application is false.

(b) DMV determines that the person fails to meet any qualification for certification required by these rules.

(2) DMV may not process any application for a Class C Third Party Examiner Certificate if any portion of the application is incomplete.

(3) If DMV refuses to issue a Class C Third Party Examiner Certificate, the person is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) A person must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0320
Responsibilities of a Class C Third Party Examiner

(1) The third party examiner must:

(a) Remain in compliance with the qualifications set forth in OAR 735-061-0290;

(b) Conduct a drive test for an applicant in accordance OAR 735-061-0370;

(c) Conduct a minimum of eight tests every three months;

(d) Comply with all statutes, administrative rules and regulations related to the Class C third party testing program;

(e) Notify the third party testing business within 24 hours upon receipt of notice of:

(A) Any suspension, revocation, cancellation or disqualification of the third party examiner's driving privileges;

(B) A civil legal action related to the third party examiner's employment, qualification or responsibilities as a third party examiner; or

(C) A complaint concerning the third party examiner's administration of a test.

(f) Notify the third party testing business within 24 hours of any criminal investigation, arrest or conviction of the third party examiner involving any crime described in OAR 735-160-0075(2)(d) or any enrollment in a DUII diversion program;

(g) Properly complete all forms and application required by DMV; and

(h) Abide by the Code of Ethics and Rules of Conduct set forth in 735-061-0380.

(2) The third party examiner must not:

(a) Test an applicant to whom the third party examiner has provided behind-the-wheel driver training;

(b) Test an applicant who is an immediate family member or member of the household of the owner, the examiner or any employee of the Class C Third Party Testing Business.

(c) Falsify any records;

(d) Sign or issue a Certificate of Test Completion showing passing test scores to any individual:

(A) To whom the third party examiner did not administer a test in accordance with OAR 735-061-0370; or

(B) Who did not successfully pass a test conducted by the third party examiner.

(e) Conduct a Class C drive test unless certified by DMV;

(f) Transfer his or her Class C Third Party Examiner Certificate to any other person; or

(g) Disclose an applicant's personal information as defined in ORS 802.175 or an applicant's test scores.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0330
Third Party Testing Business and Examiner Sanctions

(1) DMV may impose sanctions when it determines a Class C third party testing business or Class C third party examiner has violated any provision of OAR Chapter 735, division 61 rules.

(2) DMV will impose a sanction determined by DMV to be appropriate for the particular violation. In determining an appropriate sanction, DMV may use the specific sanction described in this rule as a minimum sanction and may impose a greater sanction, up to

the maximum authorized by these rules, upon consideration of the following criteria:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether the violations were willful or intentional; and

(d) The history of prior sanctions imposed by DMV.

(3) In accordance with OAR 137-003-0560, DMV may immediately suspend a Class C Third Party Testing Business Certificate or Class C Third Party Examiner Certificate if DMV determines there is a serious danger to the public health or safety. DMV may determine there is a serious danger to public safety if it determines that:

(a) A Class C third party testing business or examiner is engaging in fraudulent or criminal activity related to the issuance of a Certificate of Test Completion or has violated any provision of the Code of Ethics and Rules of Conduct set forth in OAR 735-061-0390; or

(b) A Class C third party testing business' general business liability or auto liability insurance has lapsed or is cancelled, or DMV determines a vehicle used for testing is in an unsafe condition.

(4) DMV may permanently revoke a Class C Third Party Testing Business Certificate or Class C Third Party Examiner Certificate if DMV determines the business or examiner participated in fraudulent or criminal activity related to the issuance of a Class C Certificate of Test Completion. Any principal, owner, shareholder, testing business' agent or manager of a Class C third party testing business whose certificate is permanently revoked is not eligible for a Class C Third Party Testing Business Certificate or Examiner Certificate for the duration of this pilot program.

(5) DMV may issue a sanction as follows when a third party testing business violates any provision of OAR Chapter 735 Division 61, other than a provision that would fall under section (3) or section (4) of this rule:

(a) First violation — 30 day suspension of Class C Third Party Testing Business Certificate;

(b) Second violation — 90 day suspension of Class C Third Party Testing Business Certificate;

(c) Third violation — Revocation of the Class C Third Party Testing Business Certificate for the duration of this pilot program.

(6) DMV may issue a sanction as follows when a third party examiner is in violation of any of the provisions of OAR Chapter 735, Division 61 other than a provision that would fall under section (3) or section (4) of this rule:

(a) First violation — 30 day suspension of Class C Third Party Examiner's Certificate;

(b) Second violation – 90 day suspension of Class C Third Party Examiner's Certificate; or

(c) Subsequent violation – Revocation of the Class C Third Party Examiner's Certificate for the duration of this pilot program.

(7) A Class C third party testing business or Class C third party examiner whose certificate has been suspended or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(8) When DMV takes action to suspend or revoke a Class C Third Party Testing Business Certificate or Class C Third Party Examiner Certificate, DMV will send notice in writing that the action will begin in five days for an immediate suspension or 30 days for any non-immediate suspension or revocation from the date on the notice. The notice will be served by first class mail sent to the most recent address on record with DMV.

(9) Except as provided in section (10) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 days of the date of the notice of violation. If a hearing request is received in a timely manner the suspension or revocation does not go into effect pending the outcome of the hearing.

(10) If the certificate is immediately suspended as set forth in section (3) of this rule, the request for hearing must be submitted in writing to, and received by, DMV within 90 days of the date of notice of suspension. The suspension remains in effect pending the outcome of the hearing.

(11) Except as provided in OAR 137-003-0528, when no request for a hearing is timely received; the third party testing business or third party examiner has waived the right to a hearing and the notice becomes the final order by default.

(12) At the end of the suspension period of a Class C Third Party Testing Business Certificate or Class C Third Party Examiner Certificate, DMV must reinstate the certificate unless DMV has ended the pilot program.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0340
Class C Third Party Examiner Training

(1) An applicant for a Class C Third Party Examiner Certificate must successfully complete third party examiner training provided by DMV.

(2) The third party examiner training course is based on the training received by drive examiners employed by DMV. As part of the training, DMV will provide to the third party examiner a Class C Examiner's Manual.

(3) To successfully complete the third party examiner training the individual must:

(a) Attend all required training classes;

(b) Successfully complete and pass all tests and other requirements; and

(c) Demonstrate the knowledge and skills to conduct Class C drive tests on behalf of DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0350
Advertising

(1) No advertisement, publication, employee or other person affiliated with the Class C Third Party Testing business may indicate or imply that a person who pays a fee and takes a test conducted by the third party business will automatically pass the drive test.

(2) No advertisement, publication, employee or other person affiliated with the Class C Third Party Testing business may indicate or imply that a person who passes the drive test conducted by the third party business guarantees issuance of a driver license by DMV as only DMV may determine if the applicant meets all requirements and qualifications for a license.

(3) A certified Class C third party testing business may use the wording "DMV certified testing business", "certified by DMV to conduct a Class C drive test", "provide drive test approved by DMV", "test is conducted by a DMV certified examiner" or similar phrases when advertising. An advertisement must not contain wording that implies the Class C third party testing business is the only option for taking the drive test.

(4) A Class C third party testing business may start advertising for this pilot program when DMV schedules training for third party examiners.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0360
Inspections by DMV

(1) DMV must inspect all third party testing business applicants before issuing a Class C Third Party Testing Business Certificate. The inspection includes, but is not limited to:

(a) Office and testing facilities;

(b) Any vehicle that may be used for conducting drive tests;

(c) Security of applicant personal information; and

(d) One or more drive test routes to be used by the third party testing business.

(2) DMV may periodically re-inspect all third party testing businesses to determine compliance with laws and administrative rules pertaining to the Class C third party pilot.

(3) By submitting an application to DMV and agreeing to comply with these rules, the Class C third party testing business consents to random, periodic examinations or inspections without prior notice by authorized representatives of DMV.

(4) In addition to section (1) of this rule, periodic inspections may review:

(a) Class C third party testing business records as required by OAR 735-061-0280(2);

(b) Maintenance of all qualifications as described in OAR 735-061-0240;

(c) Examiners' status and performance;

(d) Compliance with all terms of the third party testing agreement; and

(e) Any other location, equipment or process used in relation to this pilot program that DMV may deem necessary.

(5) The inspector may accompany a Class C third party examiner on a drive test.

(6) A DMV inspector may pose as a customer of a Class C third party testing business without identifying the inspector as an employee of DMV, to observe the manner in which testing is conducted, if DMV in good faith believes there is a reasonable possibility that unlawful activity is taking place or will take place in the foreseeable future.

(7) To pass an inspection, the Class C third party testing business must meet requirements in all areas set forth in these rules.

(8) Refusal to permit DMV to conduct a periodic inspection may result in a sanction of the Class C Third Party Testing Business Certificate, as described in OAR 735-061-0330.

(9) The inspector who conducts the inspection must prepare a written report specifying any deficiencies that must be corrected and provide the Class C third party testing business with a copy of the report. Deficiencies identified must be corrected by the Class C third party testing business within 30 days of receipt of the report.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0370
Conducting the Drive Test

(1) The purpose of the drive test is for the third party examiner to:

(a) Evaluate the applicant's ability to operate a vehicle in a safe and legal manner under actual driving conditions;

(b) Determine if the applicant demonstrates safe and legal driving methods and knowledge of traffic laws; and

(c) Evaluate the applicant's ability to perform required maneuvers according to the Class C Examiner's Manual.

(2) The drive test conducted by a third party examiner must contain the same required and scored maneuvers as the test administered by DMV.

(3) The third party examiner must:

(a) Conduct the test within the State of Oregon;

(b) Conduct the test only during daylight hours;

(c) Conduct no more than 16 tests in one day;

(d) Conduct a test on a drive test route that has been approved by DMV;

(e) Conduct the drive test in accordance with the standards adopted in OAR 735-062-0070;

(f) Use the drive test score sheet (DMV Form 735-7171) provided by DMV; and

(g) Not conduct the test if the third party examiner knows the proper wait time between a test failure and subsequent test has not been met as set forth in OAR 735-062-0070.

(4) Prior to conducting a test, the third party examiner must view and obtain a photocopy of the applicant's photo identification.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0380
Certificate of Test Completion

After completing the drive test, if an applicant has received a passing score, the third party examiner must:

(1) Complete the Certificate of Test Completion;

(2) Place the top copy of the Certificate of Test Completion and the photocopy of the applicant's photo identification in an envelope, seal the envelope and sign across the seal;

(3) Instruct the applicant to take the unopened envelope to a DMV office within 30 days of the date the Certificate of Test Completion is issued; and

(4) Advise the applicant that DMV will not accept the Certificate of Test Completion if it is altered, delivered to DMV more than 30 days from the date of the test or if the envelope appears to have been opened prior to delivery to DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

735-061-0390
Code of Ethics and Rules of Conduct

A third party testing business or third party examiner must hold to the highest standards of professional conduct and must not engage in or knowingly allow any owner, officer, agent, director, manager or employee to engage in, any of the following:

(1) Assisting or knowingly allowing an applicant for Class C driving privileges to fraudulently:

(a) Receive a passing score on the drive test when the applicant either failed the test or did not take the test; or

(b) Obtain driving privileges for which the applicant is ineligible or has not qualified.

(2) Discriminating against any applicant for Class C driving privileges on the basis of race, religion, national origin, disability, age, gender or sexual orientation;

(3) Accepting or requiring anything of value from an applicant when it is known or it is obvious that the offer is for the purpose of influencing the third party testing business's or third party examiner's actions in scoring a test or in issuing a Certificate of Test Completion;

(4) Having sexual relations with or requesting sexual relations from an applicant for driving privileges. For purposes of this section, "sexual relations" means:

(a) Sexual intercourse; or

(b) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party.

(5) Using physical force or a threat of physical force against an applicant, unless such force or threat is necessary to avoid immediate danger to the safety of the applicant, the third party examiner, employees of the third party examiner or the general public;

(6) Possessing or being under the influence of an intoxicating liquor, controlled substance, an inhalant or any combination of intoxicating liquor, an inhalant and a controlled substance while conducting business on behalf of DMV. For purposes of this section, "under the influence" means consumption of a drug or lawfully prescribed controlled substance that impairs physical or mental functions to a noticeable or perceptible degree, consumption of any unlawful controlled substance, inhalant or consumption of an intoxicating beverage within six hours of or while conducting a test;

(7) Falsifying of any document or making any misrepresentation in any document that relates to any testing activity; or

(8) Offering a bribe to or colluding with the inspector when it is known or it is obvious that the attempt is for the purpose of influencing the results of a DMV inspection or evaluation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 11-2014, f. 10-28-14, cert. ef. 11-1-14

DIVISION 62

DRIVER LICENSING

735-062-0001
Purpose

(1) The purpose of these chapter 735, division 062, rules is to establish the various requirements for the issuance, replacement or renewal of a Class C non-commercial driver license, driver permit or identification card.

(2) A Class C non-commercial driver license is the base privilege a person must possess to be issued a commercial learner driver permit or commercial driver license. Rules in chapter 735, division 063 establish requirements and processes that are specific to the granting of commercial driving privileges. Therefore, these division 062 rules apply to the base privileges portion of a commercial driver license or commercial learner driver permit, except where specified in chapter 735, division 063.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0002
Definitions

As used in these OAR 735, division 062, rules the following definitions apply:

(1) "Biometric data" means measurements of the physical characteristics of a person's face that can be used to authenticate the identity of the person.

(2) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.

(3) "Legal presence" or "legal presence in the United States" means that a person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States under federal immigration laws.

(4) "SSA" means the Social Security Administration.

(5) "SSN" means Social Security number.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.050
Stats. Implemented: ORS 801.163, 802.200, 807.021, 807.024, 807.050
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 20-2010, f. 11-19-10, cert. ef. 1-1-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0005
SSN — Requirements for Collection and Verification of SSN or Proof of Ineligibility for a SSN

(1) When a person who is eligible for a SSN applies for any original, renewal or replacement driver license, driver permit or identification card, the person must provide his or her SSN on the application form.

(2) A person who applies for any original, renewal or replacement non-commercial driver license or driver permit or identification card and claims to be ineligible for a SSN must provide proof that he or she is not eligible for a SSN. A person may prove his or her ineligibility for a SSN by presenting documents issued by the Department of Homeland Security or other federal agencies, which demonstrate that the person is not eligible to be assigned a SSN by the SSA. The person must also certify that he or she is ineligible for a SSN.

(3) DMV will not accept proof of ineligibility for a SSN from any applicant who presents proof of being a citizen or lawful permanent resident of the United States or proof of being legally present with authorization for employment in the United States.

(4) When an applicant provides a SSN as required by section (1) of this rule, DMV will submit the SSN to the SSA for verification, unless the applicant is a citizen or permanent legal resident of the United States whose SSN was previously verified under this rule. An applicant's SSN is verified when SSA notifies DMV that the applicant's SSN, name and date of birth are confirmed by SSA's records.

(5) Notwithstanding section (4) of this rule a SSN is not considered verified if the SSA notifies DMV that the SSN provided is inactive, invalid, impossible, not verifiable for other reasons or if there is a system error.

(6) Before issuing a temporary applicant permit as provided in OAR 735-062-0032 or 735-062-0033, DMV will require proof of the person's SSN if the SSN provided on the application is not verified as described in section (4) of this rule. Proof that the SSN is the one assigned to the person by the SSA may include, but is not limited to, one or more of the following documents:

(a) Social Security Card or other SSA documentation;

(b) Income tax form filed with the Internal Revenue Service or a state tax agency;

(c) Employment document;

(d) Military document (DD214); or

(e) Any document containing full SSN acceptable as proof of legal presence or identity and date of birth as listed in OAR 735-062-0015 or 735-062-0020.

(7) DMV will not issue, renew or replace any driver license, driver permit or identification card, except as provided in OAR 735-062-0032 and 735-062-0033, unless:

(a) The applicant has proved his or her legal presence in the United States as provided in OAR 735-062-0015, and DMV has verified the applicant's SSN as provided in section (3) of this rule; or

(b) If the applicant claims to be ineligible for a SSN, the applicant has proved his or her ineligibility for a SSN as provided in section (2) of this rule and his or her legal presence in the United States as provided in OAR 735-062-0015.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.050
Stats. Implemented: ORS 802.200, 807.021, 807.022 & 807.050
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 11-1995, f. & cert. ef. 11-15-95; DMV 19-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 2-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 11-2015, f. 12-17-15, cert. ef. 1-1-16; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0007
Driver Permits or Driver Licenses

(1) Before the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a driver permit or driver license, the person applying for the driver permit or driver license must:

(a) Satisfy all requirements set forth in ORS 807.040 and 807.060(2)(a) if under the age of 18. For purposes of ORS 807.060 and this subsection:

(A) "Mother" means the biological or adoptive mother of the applicant, whose parental rights have not been terminated;

(B) "Father" means the biological or adoptive father of the applicant, whose parental rights have not been terminated; and

(C) "Legal guardian" means an individual, or the authorized representative of an entity, private or public institution or agency appointed as guardian of the applicant by a court having jurisdiction.

(b) Satisfy all requirements set forth in ORS 807.065 and 807.066 to receive a driver license (provisional) if under 18 years of age;

(c) Provide a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005;

(d) Provide proof of legal presence as provided in OAR 735-062-0015;

(e) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016;

(f) Provide proof of the person's identity and date of birth as provided in OAR 735-062-0020;

(g) Provide proof of the person's residence address as provided in OAR 735-062-0030;

(h) Provide proof, as provided in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(i) Surrender all driver permits and driver licenses in the person's possession issued outside of Oregon.

(2) A person is not eligible for driving privileges under ORS 807.060(4) or (5) and DMV will not issue or renew driving privileges or replace a driver license or driver permit if on an appli-

cation for driving privileges or a replacement license or permit a person:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?" and the person is unable to pass a DMV vision screening;

(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?";

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(3) A person who is denied issuance or renewal of driving privileges or replacement of a driver license or driver permit under section (2) of this rule will be allowed to establish or reestablish eligibility by passing DMV examinations under ORS 807.070, by getting a determination of eligibility from the Medical Determination Officer under 807.090 or both, as determined by DMV. The requirement may be waived if DMV determines the application was completed in error and the person is eligible for driving privileges.

(4) Upon receipt of an application for a driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS) to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(5) DMV may require the applicant to provide a clearance letter in compliance with OAR 735-062-0160, indicating the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) indicates the applicant's driving privilege is not fully valid.

(6) DMV will not issue driving privileges to a person until his or her driving privilege is reinstated in all jurisdictions, unless the only remaining reinstatement requirement in the other jurisdiction is proof of financial responsibility. Nothing in this section prohibits DMV from issuing a regular Class C driver license to a person whose CDL driving privileges are not valid as long as the person's regular Class C or equivalent driving privileges are valid.

(7) DMV will not issue a driver license or permit to a person with a current, valid Oregon identification card (ID card). To become eligible, the person must surrender the ID card before DMV may issue the Oregon driver license or permit. If the person's ID card is lost or destroyed, the person must make a statement that the card is lost or destroyed and that it will be returned to DMV if found.

(8) A driver license issued to a person with a February 29 birth date expires:

(a) On February 29 if the expiration year is a leap year; or

(b) On March 1 if the expiration year is not a leap year.

(9) After determining that an applicant has met all requirements under this rule, DMV will issue the license or permit and mail it to the address provided by the applicant at the time of the application.

(10) After determining that an applicant has met all requirements under this rule and has provided proof of legal presence in the United States on a temporary basis, as described in OAR 735-062-0015(5), DMV will issue a limited term driver license or limited term driver permit and mail it to the address provided by the applicant at the time of the application. The expiration date of a limited term driver license or limited term driver permit is as described in ORS 807.130(3).

(11) DMV will issue a person who is a citizen of a country with a Compact of Free Association with the United States and who provides proof of legal presence as set forth in OAR 735-062-0015(4)(a), a driver license with an expiration date as described in ORS 807.130(1) or (2).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021, 807.040, 807.050, 807.060, 807.120, 809.310 & 807.050

Stats. Implemented: ORS 807.021, 807.040, 807.060, 807.066 & 807.130

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0000; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 3-2003, f. & cert. ef. 4-21-03; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 27-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; Renumbered from 735-062-0000, DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 19-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 2-2016, f. & cert. ef. 4-29-16; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0010

Requirements for Establishing Identity Under ORS 807.024 and Consequences of Applicant's Failure to Establish Identity

(1) Pursuant to ORS 807.400 and as provided in this rule, DMV will issue an identification card to a person who does not have a valid driver license.

(2) A person applying for an identification card must:

(a) Satisfy all identification card requirements set forth in ORS 807.400 and 807.410, except as described under section (7) of this rule;

(b) Provide a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005;

(c) Provide proof of legal presence as provided in OAR 735-062-0015;

(d) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016.

(e) Provide proof of the person's identity and date of birth as provided in OAR 735-062-0020; and

(f) Provide proof of the person's residence address as provided in OAR 735-016-0070 and 735-062-0030.

(3) Identification cards issued to persons for whom DMV has created an Oregon driving record will reflect the same number as that on the existing record.

(4) An applicant in possession of a driver license issued by another jurisdiction must surrender that license to DMV before an identification card will be issued. The person must provide a statement to DMV if the person's license is lost, destroyed or the person no longer has the license in his or her possession, and must agree that the license will be surrendered to DMV if found.

(5) Applicants for an identification card must personally apply at a DMV office to receive an identification card.

(6) All identification cards must include a photograph of the cardholder.

(7) DMV will waive the fee requirements set forth in ORS 807.410 for those persons applying for an identification card when:

(a) The person voluntarily surrenders an Oregon license or driver permit to DMV based upon the person's recognition that the person is no longer competent to drive; or

(b) The person's driving privileges are suspended under ORS 809.419(1) and the person voluntarily surrenders the person's license or driver permit to DMV.

(8) An identification card issue to a person with a February 29 birth date expires:

(a) On February 29 if the expiration year is a leap year; or

(b) On March 1 if the expiration year is not a leap year.

(9) After determining that an applicant has met all requirements under this rule, DMV will issue the identification card and mail it to the address provided by the applicant at the time of application.

(10) After determining that an applicant has met all requirements under this rule and has provided proof of legal presence in the United States on a temporary basis, as described in OAR 735-062-0015(5), DMV will issue a limited term identification card and mail it to the address provided by the applicant at the time of the application. The expiration date of a limited term driver license or limited term driver permit is as described in ORS 807.130(3).

(11) DMV will issue a person who is a citizen of a country with a Compact of Free Association with the United States and who provides proof of legal presence as specified in OAR 735-062-0015(4)(a) an identification card with an expiration date as described in ORS 807.400(8).

(12) DMV may renew an identification card as provided in OAR 735-062-0090 or may do so using a previous photograph only as provided 735-062-0125.

(13) DMV may replace an identification card as provided in OAR 735-062-0110 or may do so using a previous photograph only as provided 735-062-0125.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021, 807.040, 807.050 & 807.400

Stats. Implemented: ORS 807.021, 807.022 807.130 & 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0003; MV 19-1990, f. 12-17-90, cert. ef. 1-1-91; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 12-2013, f. & cert. ef. 9-24-13; DMV 19-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 14-2014, f. & cert. ef. 12-1-14

735-062-0012
Veteran Designation on a Driver License, Driver Permit or Identification Card

(1) A person who is a veteran, as defined in ORS 408.225, may request that DMV add a veteran designation to the person's driver license, driver permit or identification card.

(2) DMV will accept the following as proof the person is a veteran:

(a) For discharge from military service in 1950 or after, a U.S. Defense Department Form 214, Certificate of Release or Discharge from Active Duty (DD 214), or a Correction to DD 214 Form (DD 215); or

(b) For discharge from military service before 1950, a separation document or form issued by a branch or department of the US Armed Services.

(3) The request for a veteran designation may be made when applying for an original, renewal or replacement driver license, driver permit or identification card. The veteran designation will remain on the person's driver license, driver permit or identification card, except as specified in section (4) of this rule.

(4) A person may request a veteran designation be removed when renewing or replacing a driver license, driver permit or identification card.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.110, 807.160, 807.400

Stats. Implemented: ORS 807.110, 807,160, 807.400

Hist.: DMV 19-2010, f. 10-25-10, cert. ef. 1-1-11

735-062-0014
Proof of Legal Name

(1) If the applicant's current legal name is different from the name in the document submitted to prove legal presence pursuant to OAR 735-062-0015, the applicant must provide proof of the applicant's current legal name sufficient to establish that he or she is the same person named in the document submitted as proof of legal presence.

(2) There must be sufficient connection between information shown on the legal presence document and the proof of the applicant's current legal name for DMV to determine that the applicant is the person named in the legal presence document. Examples of connecting information include first name, middle name or middle initial, previous surnames used, date of birth, place of birth, social security number or mother's maiden name.

(3) DMV may accept an identity document listed in OAR 735-062-0020 as proof of the applicant's current legal name.

(4) DMV may use the applicant's DMV record to help establish a connection between the identity document and the document used to establish legal presence.

(5) If the applicant's proof of legal name does not establish the applicant is the same person named in the document submitted as proof of legal presence, or the applicant's identity document or DMV record do not show the person's current legal name, the applicant must provide documentary proof of a legal name change. Documentary proof of an applicant's legal name change may include, but is not limited to: an official government-issued marriage document, a divorce decree, a certificate of registered domestic partnership, a judgment of dissolution or annulment of marriage or domestic partnership, an adoption decree, and a court decree, order or judgment legally changing the applicant's name.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & OL 2008, Ch 1

Stats. Implemented: OL 2008, Ch 1

Hist.: DMV 23-2008(Temp), f. 9-11-08, cert. ef. 9-15-08 thru 3-13-09; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09

735-062-0015
Proof of Legal Presence

(1) Except as provided in OAR 735-062-0032 and 735-062-0033, a person who applies for any original, renewal or replacement driver permit, driver license, or identification card must provide valid documentary proof that the person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States in accordance with federal immigration laws, unless the person's DMV record shows DMV has previously verified the person's SSN and shows that the person is a citizen or permanent legal resident of the United States. The documents provided must be either original or certified copies; photocopies are not acceptable.

(2) Documents acceptable as proof of U.S. citizenship include, but are not limited to:

(a) A birth certificate issued by a U.S. Territorial government, the District of Columbia or the government of a state or political subdivision of a state of the United States. DMV will not accept a hospital-issued birth certificate, hospital card or birth registration or baptismal certificate.

(b) U.S. Consular Report of Birth Abroad (FS-240).

(c) U.S. government-issued Certification of Report of Birth (DS-1350 or FS-545).

(d) Request for Verification of Birth (DD372).

(e) United States passport, not expired more than five years.

(f) United States passport card, not expired more than five years.

(g) U.S. Territory passport, not expired more than five years.

(h) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation, if DMV determines:

(A) The procedures used in issuing the card are sufficient to prove that a member is a citizen or permanent resident of the United States; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(i) Certificate of Citizenship (N560 and N561).

(j) Certificate of Naturalization (N550, N570 and N578).

(k) U.S. Citizen Identification Card (I-197 and I-179).

(3) Documents acceptable as proof of permanent legal residence in the U.S include, but are not limited to: Resident Alien card; Permanent Resident card (I-551); or a Permit to Re-Enter (I-327).

(4) Proof of legal presence in the United States for:

(a) A citizen of a nation with a Compact of Free Association is a valid passport or a passport not expired more than five years issued by the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI) or the Republic of Palau.

(b) An American Indian born in Canada is documentation sufficient to meet the requirements for entry into the United States under 8 USC § 1359.

(5) Documents acceptable as proof that a person is not a citizen or permanent legal resident of the United States but is legally present in the United States on a temporary basis include, but are not limited to:

(a) Arrival/Departure Record (I-94 or CBP I-94A), current admittance stamp, or a valid I-797A Notice of Action issued by the Department of Homeland Security or Custom and Border Protection presented with or within a valid unexpired foreign passport.

(b) Temporary Resident ID card (I-688);

(c) Employment Authorization card (I-766);

(d) Refugee Travel Document Form I-571; or

(e) Arrival/Departure Record (I-94 or CBP I-94) stamped admitted as a Refugee, Asylee, Asylum, Parole, Parolee, or Paroled

for an indefinite period presented with acceptable proof of identity as defined in OAR 735-062-0020.

(6) DMV will not accept any document issued by the United States Immigration and Customs Enforcement Agency containing the statement:

(a) Under Docket Control;

(b) Under the Order of Supervision; or

(c) Notice of Immigration Bond Cancelled.

(7) DMV will not accept as the proof required by sections (3) and (5) of this rule a document that is not verified through the Systematic Alien Verification for Entitlements (SAVE) system.

(8) Notwithstanding section (7) of this rule, DMV may accept a document described in section (5) of this rule that is not verified through the SAVE system if the document is presented for the replacement of a limited term driver license, limited term driver permit, or limited term identification card under OAR 735-062-0110.

(9) DMV will not accept any document as proof of legal presence in the United States that is:

(a) Stamped cancelled;

(b) Hole-punched;

(c) Marked with clipped corners;

(d) Altered; or

(e) Amended, unless the amendments were completed by the issuing authority.

(10) An applicant who must obtain a document in order to provide proof of legal presence may apply for an applicant temporary driver permit as described in OAR 735-062-0032 that will provide driving privileges for a limited time or an applicant temporary identification card as described in 735-062-0033.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.022

Stats. Implemented: ORS 807.021 & 807.022

Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 23-2008(Temp), f. 9-11-08, cert. ef. 9-15-08 thru 3-13-09; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 14-2014, f. & cert. ef. 12-1-14

735-062-0016
Requirements for Establishing Identity Under ORS 807.024 and Consequences of Applicant's Failure to Establish Identity

(1) An applicant for an original, renewal or replacement driver license, driver permit or identification card must submit to the collection of biometric data, as provided in ORS 807.024, for the purpose of establishing identity, unless the applicant meets the requirements of OAR 735-062-0120 or 735-062-0125.

(2) To optimize the collection of biometric data DMV will take a digital photograph of the applicant which must:

(a) Be full-faced;

(b) Clearly show the iris and pupil of each eye; and

(c) Capture the applicant's natural appearance in accordance with the requirements set forth in section (4) of this rule.

(3) Notwithstanding subsection (2)(b) of this rule, an applicant for an original, renewal or replacement driver license, driver permit or identification card may be photographed:

(a) With his or her eyes closed if the applicant provides documentation from a licensed physician, satisfactory to DMV, that indicates that the camera flash may cause a seizure or other serious medical condition. Except for subsection (4)(b) of this rule, the person must comply with all other requirements for the digital photograph.

(b) Wearing an eye patch or eye covering if the condition that caused the wearing of the eye patch or eye covering is a permanent medical condition. Except for subsection (4)(c) of this rule, the person must comply with all other requirements for the digital photograph.

(4) To comply with Section (2) of this rule, DMV will require the applicant to:

(a) Remove any eyeglasses;

(b) Remove any contact lens that significantly changes the appearance of the applicant's eye;

(c) Remove any clothing or similar material that partially or completely covers the applicant's face;

(d) Remove any head covering, including a hat or cap, unless the head covering is for medical or religious reasons. A head covering worn for medical or religious reasons must not cover or distort the applicant's face; and

(e) Remove makeup, face paint, jewelry, sticker or other temporary substance that covers or distorts all or part of the face so as to significantly alter the applicant's natural appearance and which DMV determines is likely to affect the biometric measurements of the digital photograph.

(5) Except as provided in OAR 735-062-0120, 735-062-0125, if an applicant's identity is not established by the biometric data submitted pursuant to subsection (1) of this rule, the applicant must provide documentation or other evidence sufficient to establish the applicant's identity to the satisfaction of DMV. The documents or other evidence may include, but are not limited to, one or more of the following:

(a) Documents listed in OAR 735-062-0020 that provide proof of the applicant's identity and date of birth to the satisfaction of DMV.

(b) The applicant's SSN and proof and verification of the SSN as provided in OAR 735-062-0005.

(c) A letter from a treating physician that identifies the person and states a medical reason for the person's change in appearance, if applicable.

(d) A document or letter from a law enforcement agency verifying identity; or

(e) A court document verifying identity.

(6) DMV may make a copy of any document presented by an applicant under section (5) of this rule if a copy may assist DMV in its determination of the identity of an applicant.

(7) Except as provided in OAR 735-062-0120 and 735-062-0125, DMV will not issue a driver license, driver permit or identification card, if the applicant's identity is not established under this rule.

(8) Pursuant to ORS 809.310(3) and OAR 735-070-0004, DMV will suspend an applicant's driving privileges and the person's right to apply for driving privileges if the person fails to establish his or her identity as required by this rule and the failure to establish identity is the result of the applicant's committing any of the acts identified in ORS 809.310(3)(a) through (h).

(9) Pursuant to ORS 809.310(1), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card.

(10) Pursuant to ORS 809.310(2), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card, and the failure to establish identity is the result of the applicant's providing false information to DMV.

(11) If, based on the identification procedures required under section (1) or section (2) of this rule, DMV determines that an applicant has used different names to identify himself or herself in different applications submitted to DMV and the different names are not the result of the applicant's having legally changed his or her name, DMV may take the actions authorized by ORS 809.135.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.024

Stats. Implemented: ORS 807.021, 807.024, 807.400, 809.135, 809.310, 807.400 & 809.411

Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 13-2010, f. & cert. ef. 7-30-10; DMV 6-2011, f. & cert. ef. 6-21-11; DMV 11-2011, f. & cert. ef. 11-23-11; DMV 9-2012, f. & cert. ef. 7-19-12; DMV 4-2015, f. & cert. ef. 6-19-15; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0020
Proof of Residence Address

(1) A person who applies for an original, renewal or replacement driver permit, driver license, or identification card must provide valid documentary proof of the person's identity and date of birth prior to the issuance of such driver permit, driver license,

or identification card. Documents must be original or certified copies.

(2) Except as provided in section (3) of this rule, documents acceptable as proof of identity and date of birth include, but are not limited to:

(a) Any document that provides proof of legal presence as provided in OAR 735-062-0015.

(b) U.S. Military documents including:

(A) Military or Armed Forces ID card;

(B) Military Common Access Card; or

(C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1).

(c) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation if DMV determines:

(A) The procedures used in issuing the card are sufficient to prove a member's identity and date of birth; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(d) Canadian Government Issued Birth Certificate;

(e) Out-of-state, District of Columbia, U.S. Territorial government or Canadian driver license, instruction permit or identification card, that contains the applicant's photograph, not expired more than one year unless hole-punched or marked "Not Valid as ID."

(f) Oregon driver license, instruction permit, or identification card, not expired more than one year. For the purposes of this subsection, DMV will not accept a driver license or identification card that was issued without a photograph, or issued with a previous photograph as described in OAR 735-062-0125.

(g) U.S. Department of State driver license or Non-driver ID card not expired more than one year.

(h) Oregon Concealed Weapon Permit/Concealed Handgun License, not expired more than one year.

(i) A letter verifying identity provided by an Oregon County Community Corrections agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains security features that are sufficient to prevent alteration or counterfeiting of the letter.

(j) A letter verifying identity provided by the U.S. Pretrial Services if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains security features that are sufficient to prevent alteration or counterfeiting of the letter.

(k) A letter verifying identity provided by the Oregon Youth Authority Agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains security features that are sufficient to prevent alteration or counterfeiting of the letter.

(l) A letter verifying identity provided by a U.S. District Court Probation Office if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains security features that are sufficient to prevent alteration or counterfeiting of the letter.

(m) Oregon Department of Correction Release Identification card, issued after April 30, 2005.

(n) The applicant's DMV record, including the applicant's digital photo, if the applicant has previously been issued an Oregon driver license, driver permit or identification card.

(3) A person who is renewing or replacing a driver license or identification card issued pursuant to OAR 735-062-0125 must provide an original or certified copy of one of the following documents as proof of identity and date of birth:

(a) A birth certificate issued by a U.S. Territorial government, the District of Columbia or the government of a state or political subdivision of a state of the United States. DMV will not accept a hospital-issued birth certificate, hospital card or birth registration or baptismal certificate.

(b) U.S. Consular Report of Birth Abroad (FS-240).

(c) U.S. government-issued Certification of Report of Birth (DS-1350 or FS-545).

(d) Request for Verification of Birth (DD372).

(e) United States passport, not expired more than five years.

(f) United States passport card, not expired more than five years.

(g) U.S. Territory passport, not expired more than five years.

(h) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation, if DMV determines:

(A) The procedures used in issuing the card are sufficient to prove that a member is a citizen or permanent resident of the United States; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(i) Certificate of Citizenship (N560 and N561).

(j) Certificate of Naturalization (N550, N570 and N578).

(k) U.S. Citizen Identification Card (I-197 and I-179).

(L) Resident Alien card.

(m) Permanent Resident card (I-551).

(n) Permit to Re-Enter (I327).

(4) DMV will not accept a document as proof of identity and date of birth if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of identity and date of birth if the document presented does not establish the applicant's identity or date of birth to the satisfaction of DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400

Stats. Implemented: ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230 & 807.280

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0016; MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 7-2001, f. & cert. ef. 3-7-01; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 2-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 23-2008(Temp), f. 9-11-08, cert. ef. 9-15-08 thru 3-13-09; DMV 27-2008, f. 12-15-08, cert. ef. 1-1-09; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10

735-062-0030
Proof of Residence Address

(1) DMV requires all applicants for an original driver permit, driver license, or identification card to present proof of the applicant's current residence address. Current residence address is the address where the applicant actually lives. DMV will include this address on the driver permit, driver license, or identification card. Acceptable proof includes any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or replacement driver permit, driver license, or identification card to present proof of the applicant's current residence address if the applicant's address has changed since the last time the driver permit, driver license or identification card was issued or renewed. Acceptable proof includes any of the items listed in section (3) of this rule.

(3) Proof of residence address must contain the applicant's first name, last name, and current residence address and includes any of the following:

(a) Any proof of legal presence, identity and date of birth document listed in OAR 735-062-0015 and 735-062-0020.

(b) Mortgage documents or a rental or lease agreement.

(c) Monthly rental receipt or letter from a hotel, motel, campground or recreational vehicle park that permits extended stays.

(d) A verbal statement from any person residing at the same residence address as provided by the applicant on the application.

The person making the verbal statement must accompany the applicant at the time of application and present one acceptable proof of address document as set forth in this rule.

(e) Utility hook-up order or account statement issued by the service provider.

(f) A loan agreement, payment booklet, voucher, statement or other financial record.

(g) Any document delivered to the current resident address by the United States Postal Service, FedEx, UPS, or other delivery service. DMV will accept a document with or without the envelope or packaging as long as the residence address is printed on the document.

(h) Oregon vehicle title or registration documents belonging to the primary owner listed and containing only the owner's residence address.

(i) Oregon manufactured structure ownership documents.

(j) Oregon voter notification card.

(k) Selective Service card.

(L) Insurance card, insurance policy, medical records or health benefits card.

(m) Educational institution transcript forms or other school documents showing enrollment for the current school year.

(n) An unexpired professional license issued by an agency in the United States.

(o) Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) Status.

(p) A pay stub, W2, 1099 or income tax return.

(q) Letter from the United States Postal Service, Oregon State Hospital, Oregon Veteran Rehabilitation Center, a homeless shelter, a transitional service provider, nursing home, assisted/independent living care facility/home, adult care service provider/skill nursing facility, or halfway/group home certifying the applicant's residence address, approved by DMV.

(r) A letter from a corporation or business that provides corporate housing to employees.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's Office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where the applicant actually resides, e.g., "under the west end of Burnside Bridge." The applicant must prove that the applicant is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant must also provide a mailing address.

(6) An applicant who travels continuously may use a residence address of "continuous traveler." The applicant must prove that the applicant is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the use of "continuous traveler," the applicant must also provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400
Stats. Implemented: ORS 807.110, 807.160 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017; DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0032
Applicant Temporary Driver Permit Issued to Applicants Unable to Provide SSN and Legal Presence Documentation

(1) When an applicant for a Class C non-commercial driver license or driver permit does not provide a verifiable SSN but is able to present the documentation required by OAR 735-062-0005(4) to prove a SSN is assigned to the applicant, or certifies but fails to present documentation of ineligibility for a SSN, or is unable to present the documentation required by 735-062-0015 to prove legal presence, DMV may issue an applicant temporary driver permit to the applicant if:

(a) The applicant is otherwise eligible and complied with all other requirements for a driver license or driver permit, including the requirements for proof of identity and date-of-birth under OAR 735-062-0020;

(b) The applicant certifies that to the best of his or her knowledge, the applicant is legally present in the United States; and

(c) DMV has not issued an applicant temporary driver permit to the applicant under this rule before, and the applicant so certifies.

(2) A holder of an applicant temporary driver permit issued under this rule must have the permit on his or her person while operating a motor vehicle. The applicant temporary driver permit will indicate the class of license granted and any endorsements granted and will list any restrictions placed on the driving privileges.

(3) An applicant temporary driver permit issued under this rule is valid for 90 days from the date of issuance, or until the applicant is able to provide to DMV the documentation required by OAR 735-062-0005 and 735-062-0015 for issuance of a driver license or driver permit, whichever is sooner.

(4) DMV may extend the term of the applicant temporary driver permit up to two times for sufficient cause. Each extension of the term of the permit may not exceed 90 days.

(5) Notwithstanding sections (3) and (4) of this rule, DMV may extend the term of the applicant temporary driver permit if the applicant presents proof the applicant has taken reasonable steps to obtain a verifiable SSN or the documentation required under OAR 735-062-0005 showing ineligibility, or taken reasonable steps to obtain the documentation required under OAR 735-062-0015, but has been unable to do so due to circumstances beyond the applicant's control. Any extension of an applicant temporary driver permit issued under this section will be for a term of 90 days.

(6) An applicant temporary driver permit issued under this rule automatically becomes invalid if the applicant's driver license or driver permit is issued, the permit expires and is not extended, or if the applicant's driving privileges or right to apply for driving privileges are suspended, revoked or cancelled. If and when the applicant's driver license or driver permit is issued or driving privileges are suspended, revoked or cancelled, the applicant must surrender to DMV his or her applicant temporary driver permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.310
Stats. Implemented: ORS 807.310
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0033
Applicant Temporary Identification Cards Issued to Applicants Unable to Provide SSN and Legal Presence Documentation

(1) When an applicant for an identification card does not provide a verifiable SSN but is able to present the documentation required by OAR 735-062-0005(4) to prove a SSN is assigned to the applicant, or certifies but fails to present documentation of ineligibility for a SSN, or is unable to present the documentation required by 735-062-0015 to prove legal presence, DMV may issue an applicant temporary identification card to the applicant, if:

(a) The applicant is otherwise eligible and has complied with all other requirements for an identification card, including the requirements for proof of identity and date-of-birth under OAR 735-062-0020;

(b) The applicant certifies that, to the best of his or her knowledge, the applicant is legally present in the United States; and

(c) DMV has not issued an applicant temporary identification card to the applicant under this rule before, and the applicant so certifies.

(2) An applicant temporary identification card issued under this rule is valid for 90 days from the date of issuance, or until the applicant is able to provide to DMV the documentation required by

OAR 735-062-0005 and 735-062-0015 for issuance of an identification card, whichever is sooner.

(3) DMV may extend the term of the applicant temporary identification card up to two times for sufficient cause. Each extension of the term of the permit may not exceed 90 days.

(4) Notwithstanding sections (2) and (3) of this rule, DMV may extend the term of the applicant temporary identification card if the applicant presents proof the applicant has taken reasonable steps to obtain a verifiable SSN or the documentation required under OAR 735-062-0005 showing ineligibility, or taken reasonable steps to obtain the documentation required under OAR 735-062-0015, but has been unable to do so due to circumstances beyond the applicant's control. Any extension of an applicant temporary identification card issued under this section will be for a term of 90 days.

(5) An applicant temporary identification card issued under this rule automatically becomes invalid if the applicant's identification card is issued, the applicant temporary identification card expires and is not extended, or DMV suspends or cancels the applicant temporary identification card or right to apply for an identification card. The applicant must surrender to DMV the applicant temporary identification card if and when the applicant's identification card is issued or if it is suspended, revoked or cancelled.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.405
Stats. Implemented: ORS 807.405
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12

735-062-0035
Proof of School Attendance, Completion or Exemption

(1) DMV may not issue a driving privilege to an applicant under 18 years of age unless the applicant provides proof of graduation from high school, proof of receipt of a General Education Development (GED) certificate, or a certification from a parent or legal guardian that the applicant is attending school or is exempt from school attendance requirements.

(2) The following are proof of high school graduation:

(a) The applicant's high school diploma or a copy thereof;

(b) A certified copy of the applicant's high school transcript showing that the applicant has graduated; or

(c) A letter on school letterhead and signed by the principal or the principal's designee stating the applicant has graduated from high school.

(3) The following are proof of receipt of a GED certificate:

(a) The applicant's GED certificate or copy thereof; or

(b) A letter from the Department of Community Colleges and Workforce Development, on agency letterhead and signed by an authorized representative, stating that the applicant has received a GED certificate.

(4) An applicant under 18 years of age who is married or is emancipated may certify meeting school attendance requirements without needing the signature of a parent or legal guardian.

(5) DMV cannot reinstate driving privileges that have been suspended for withdrawal from school unless the person provides proof of graduation from high school as provided in section (2) of this rule, proof of receipt of a GED as provided in section (3) of this rule, or provides one of the following:

(a) The Statement of Enrollment form (DMV form #735-7185) signed by the principal or designee of the principal of the secondary school attended by the applicant.

(b) The Statement of Enrollment form (DMV form #735-7185) signed by an authorized representative of a community college attended by the applicant showing that the applicant is making satisfactory progress toward a GED certificate.

(c) The Statement of Enrollment form (DMV form #735-7185) signed by the authorized representative of a community college attended by the applicant showing that the applicant is making satisfactory progress toward a high school diploma.

(d) The Statement of Enrollment form (DMV form #735-7185) signed by the authorized representative of the education service district or school district having jurisdiction over the area of the applicant's residence showing that the applicant is being taught by a private teacher or parent in compliance with ORS 339.035.

(e) A statement signed by the applicant, along with any supporting documentation, describing why the applicant cannot attend school due to circumstances beyond the applicant's control. Based upon the information submitted, DMV will determine whether or not the applicant is exempt from school attendance. This determination is only for the purpose of issuing driving privileges and does not exempt the applicant from any requirement to attend school.

(f) The Statement of Enrollment form (DMV form #735-7185) signed by the authorized representative of the education service district or school district having jurisdiction over the area of the applicant's residence showing that the applicant has been granted an exemption from school attendance under ORS 339.030(2).

(6) DMV will waive the reinstatement fee for a person whose driving privileges were suspended under ORS 809.423(3) if the person provides:

(a) Proof of high school graduation as provided in section (2) of this rule; or

(b) Proof of a GED certificate as provided in section (3) of this rule.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619 & 807.066
Stats. Implemented: ORS 807.066
Hist.: DMV 6-2000(Temp), f. 8-10-00, cert. ef. 9-1-00 thru 2-27-01; DMV 13-2000, f. & cert. ef. 10-13-00; DMV 26-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 10-2015, f. 12-17-15, cert. ef. 1-1-16

735-062-0040
Knowledge Test

(1) Applicants for an original driver permit, driver license or endorsement must pass the knowledge test(s) required under ORS 807.070(2) and, if applicable, 807.065(1)(b).

(2) The knowledge test(s) will be specific to the class of license or endorsement sought. The test(s) will examine the applicant's knowledge and understanding of traffic laws, safe driving practices and factors that cause accidents.

(3) All knowledge tests are closed book. During a test an applicant is not allowed to use any study guides, manuals, notes, electronic devices or any other items to assist the applicant in obtaining answers to the test questions. During a test an applicant may not obtain an answer to any test question from another person.

(4) The first knowledge test for a driver license, permit or endorsement may be conducted the day the applicant becomes eligible for the test. If the applicant fails the first knowledge test, additional tests shall be conducted, as needed, with the following frequency:

(a) A second test may be conducted on any day after the day of the first test;

(b) A third test may be conducted on any day after the day of the second test;

(c) A fourth test may be conducted on any day after the third test;

(d) A fifth test may be conducted no sooner than 28 days after the fourth test; and

(e) Any subsequent test may be conducted no sooner than 28 calendar days after the previous test.

(5) If a compelling reason is shown the DMV may waive the waiting period for a knowledge test required by section (4) of this rule. Reasons for waiving the waiting period include, but are not limited to:

(a) The person can demonstrate he or she failed the test due to a cognitive or functional impairment. A statement from the person's doctor describing how the impairment affects the person's ability to pass a knowledge test is required;

(b) The person can demonstrate that failure to pass the test will result in loss of his or her job or a job opportunity;

(c) The person was not given an oral test when an oral test was requested; or

(d) The person requested but was not given the test in his/her native language and the test is available in the language requested.

(6) The waiting period between knowledge test failures is determined by the number of times an applicant fails a specific type of test. For example, the failure of a Class C driver license knowledge test and a Class A commercial driver license knowledge test the same day is considered as one test failure for each knowledge test, not two failures.

(7) An applicant is cheating on a knowledge test if a DMV employee, during the test or when reviewing video from a surveillance camera, observes behaviors such as, but not limited to, the following:

(a) The applicant clearly using notes, a study guide, a copy of the test, or any other kind of written material that may provide the answer to a test question.

(b) The applicant clearly using an electronic device with the capability for sound, email, text messages, web access including, but not limited to, a cellular phone, personal digital assistant or wireless handheld device.

(c) The applicant clearly obtaining answers to test questions from another person, either verbally or through the use of any type of physical gesture or signal.

(8) DMV will determine that the applicant is cheating if a DMV office manager, office team leader, or designee confirms the observation of the DMV employee as described in section (7) of this rule.

(9) If DMV determines an applicant is cheating, DMV will:

(a) Stop the test if the applicant is still completing the test; or

(b) Cancel any license, permit or endorsement that was issued based on a passing test score, if the applicant was issued a driving privilege based on test score achieved through cheating.

(10) Except as otherwise provided in this section, if DMV determines an applicant cheated, the applicant must wait 90 days before he or she may take a subsequent knowledge test. DMV will provide the applicant written notice of the 90 day waiting period either by handing the applicant notice on the day of the test or by mail if the applicant left the office without such notice. DMV may waive the 90-day waiting period required under this section if the person provides proof the waiting period creates an extreme hardship. The person must provide evidence of the hardship such as, but not limited to:

(a) A statement from an employer that the person's inability to obtain driving privileges or an endorsement will result in the loss of a job or of a job opportunity because the job requires driving a motor vehicle; or

(b) A statement from a physician that the person or a member of the person's immediate family is in need of regular medical treatment and that there is no alternative transportation.

(11) When DMV determines an applicant cheated on a knowledge test as described in section (8) of this rule, the applicant may request an administrative review. The following apply to an administrative review request:

(a) DMV will notify the applicant of the right to request an administrative review at the time the test is stopped.

(b) The applicant must request an administrative review within 60 days from the date of notice. The 90-day waiting period will remain in effect and will not be rescinded or stayed by DMV pending the outcome of the administrative review.

(c) A request for an administrative review must be in writing and must include:

(A) The person's full name;

(B) The person's complete mailing address;

(C) The person's Oregon driver license number, identification card number or customer number, if available; and

(D) A brief statement of the facts and any evidence the person wants to present showing he or she should not be subject to the 90-day waiting period or proof of extreme hardship if the person is requesting a waiver of the 90-day period as described in section (9) of this rule.

(d) A request for an administrative review should also include the person's date of birth.

(e) To be received by DMV, the request for an administrative review must be:

(A) Personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR;

(B) Delivered by mail to DMV Headquarters, 1905 Lana Avenue NE, Salem OR 97314;

(C) Received by facsimile machine at FAX number (503) 945-5497; or

(D) Submitted through an online request at www.OregonDMV.com.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 802.540, 807.070

Stats. Implemented: ORS 807.070, 807.530, 809.310

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0023; MV 8-1988, f. & cert. ef. 3-2-88; MV 16-1989, f. 8-25-89, cert. ef. 4-2-90; MV 7-1991, f. & cert. ef. 7-16-91; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 14-2014, f. & cert. ef. 12-1-14

735-062-0050
Eyesight Check Content and Standards

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will check the following items when testing the eyesight of an applicant for a driver permit or driver license:

(a) Acuity; and

(b) Field of vision.

(2) To qualify for driving privileges, a person must meet the following eyesight standards:

(a) Acuity: The person must have a visual acuity level of 20/70 or better when looking through both eyes (or one eye if the person has usable vision in only one eye). A person with usable vision in both eyes will meet the standard if the visual acuity level in one eye is worse than 20/70 so long as the visual acuity level in the other eye is 20/70 or better;

(b) Field of vision: The person must have a field of vision of at least 110 degrees; and

(c) Daylight driving only: DMV will restrict the person's driving privileges to daylight driving only, if the person's best eye is worse than 20/40 and no worse than 20/70, unless in the written opinion of a licensed vision specialist (ophthalmologist or optometrist), the person's driving should not be restricted. DMV will not restrict a person whose vision is 20/40 or better to daylight driving only unless in the written opinion of a licensed vision specialist, such restriction is warranted.

(3) DMV may issue a driver permit or driver license only to a person who meets the standards in Section (2) of this rule except as described in sections (4) and (5) of this rule.

(4) A person may meet the eyesight standards with the use of a corrective lens or lenses. When a person must use a corrective lens or corrective lenses to meet the eyesight standards, DMV will restrict the person to driving only when wearing corrective lenses.

(5) DMV may authorize a person to use a bioptic telescopic lens on a corrective lens, as defined in OAR 735-062-0310(1), if when looking through the carrier lens and not the telescopic device, the person meets the eyesight standards set forth in section (2) of this rule.

(6) A person who has a limited vision condition as described in Section 3, Chapter 277, Oregon Laws 2003, may be eligible for restricted driving privileges as set forth in OAR 735-062-0300 through 735-062-0390.

Stat. Auth.: ORS 184.616, 184.619, 802.020 & 807.070

Stats. Implemented: ORS 807.070

Hist.: MV 15-1987, f. 9-21-87, ef. 9-27-87; MV 38-1987(Temp), f. & ef. 12-7-87; MV 5-1988, f. 2-16-88, cert. ef. 2-17-88; Administrative Renumbering 3-1988, Renumbered from 735-031-0031; MV 11-1989, f. & cert. ef. 3-6-89; MV 1-1993, f. & cert. ef. 2-16-93; DMV 7-1996, f. & cert.e f. 8-15-96; DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 18-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 20-2008, f. & cert. ef. 8-26-08

735-062-0060
Periodic Check of Driver's Eyesight

(1) All licensed drivers 50 years of age and older must have their eyesight tested by DMV each time a driver applies for renewal of his or her driver license.

(2) For purposes of this rule, a driver's age is the age the person will be on the date of the expiration of the license to be renewed or the person's age at the time of application for renewal, whichever is older. For example, a driver is required to have a vision screening at 48 or 49 years of age if the driver's license will expire on his or her 50th birthday.

(3) The eyesight test must include those items listed in OAR 735-062-0050.

(4) If a person's eyesight meets the eyesight test standard indicated in OAR 735-062-0050, and if the driver complies with all other driver license renewal requirements, DMV will renew the person's license. If the visual acuity of the person's best eye is worse than 20/40 and no worse than 20/70, DMV will restrict the person to daylight driving only, unless, in the written opinion of a licensed vision specialist (ophthalmologist or optometrist), the person's driving should not be restricted to daylight driving only. To obtain unrestricted driving privileges, the person must submit a completed Certificate of Vision form (DMV Form 735-24), that indicates it is the opinion of the vision specialist that the person's driving should not be restricted to daylight driving only.

(5) To allow a person to obtain the written opinion of a licensed vision specialist as provided in section (4) of this rule, DMV will issue upon request, a Temporary Driver Permit, which is valid for 30 days, when DMV's vision screening tests show a person's visual acuity level in the best eye is worse than 20/40 and no worse than 20/70 as follows:

(a) If the person's current driver license is due to expire within 30 days, DMV will issue a Temporary Driver Permit that is valid beginning on the date of expiration of the person's driver license;

(b) If the person's driver license is already expired and has been expired for less than one year, DMV will issue a Temporary Driver Permit that is valid beginning on the date it is issued; and

(c) The Temporary Driver Permit restricts the person's driving privileges to driving during daylight hours only.

(6) Drivers who are temporarily out-of-state and unable to go to a DMV office to have their eyesight tested when required to do so may get their eyesight checked in the state where they are located. Upon request, a vision examination form, Certificate of Vision, DMV **Form 735-24**, will be provided to the person by DMV. The form must be completed by a licensed ophthalmologist or optometrist and be submitted to DMV along with the driver license renewal application.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 807.070, 807.120 & 807.150

Stats. Implemented: ORS 807.120, 807.150 & 807.310

Hist.: MV 13-1985, f. 10-8-85, ef. 1-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0047; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 2-2003(Temp), f. & cert. ef. 3-20-03 thru 9-15-03; DMV 6-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 7-2010, f. & cert. ef. 3-17-10

735-062-0070
Drive Test

(1) A DMV drive test examiner or a third party drive test examiner certified by DMV will conduct the actual demonstration of an applicant's ability to drive a motor vehicle (the drive test) required under ORS 807.070(3). The test(s) must be conducted in a vehicle that can be driven only with the license class for which the application is made. For example, the drive test examiner will test a person applying for a Class C non-commercial driver license in a vehicle that can be driven only by a person with a Class C non-commercial driver license.

(2) Prior to conducting a drive test, DMV will ask the applicant for proof of compliance with financial responsibility requirements as described in OAR 735-050-0120 or proof of a uniform financial responsibility certificate as described in OAR 735-050-0050.

(3) Prior to conducting a drive test, the drive test examiner will determine if the vehicle being used for the drive test has required equipment (for example, lights, rearview mirrors, seat belts) that is in working order and may be operated in a safe condition. The examiner may refuse to conduct a drive test in a vehicle that is determined to present health or safety risks for the examiner.

(4) The drive test examiner will conduct the drive test on public streets and highways.

(5) The drive test may include checks of the applicant's ability to safely and skillfully do the following:

(a) Operate vehicle equipment and controls;

(b) Start the vehicle;

(c) Stop the vehicle;

(d) Turn and steer the vehicle;

(e) Change lanes;

(f) Merge with other traffic;

(g) Signal;

(h) Use lanes properly and maintain lane position;

(i) Control speed and obey speed limits;

(j) Back the vehicle;

(k) Observe signs, signals, other traffic and pedestrians;

(L) Use courtesy on the road and defensive driving techniques; and

(m) Demonstrate general driving ability and vehicle control.

(6) The first drive test may be conducted the day an applicant, who is otherwise eligible, satisfactorily completes the knowledge test and vision screening, or presents a valid instruction permit. If the applicant fails the first drive test a drive test examiner will conduct additional tests as needed, with the following frequency:

(a) A second test may be conducted no sooner than seven days after the first test;

(b) A third test may be conducted no sooner than 14 days after the second test;

(c) A fourth test may be conducted no sooner than 28 days after the third test; and

(d) A fifth test may be conducted no sooner than 28 days after the fourth test.

(7) The first drive test for an applicant under 18 years of age may be conducted the day the applicant becomes eligible for the test. A second, third, fourth or fifth drive test may be conducted no sooner than 28 days after a prior failure.

(8) No more than five drive tests may be conducted within any 12-month period. Following a fifth drive test failure within a 12 month period, no further drive tests will be conducted for one year from the date of the fifth drive test failure.

(9) Any required fee for a test must be paid prior to taking the test. DMV will not refund a test fee if the applicant fails the test.

(10) Test scores are valid for two years from the date the test is passed. After two years the applicant must retake and pass the applicable tests to be issued the license, permit or endorsement.

Stat. Auth.: ORS 184.614, 184.619, 802.010, 802.200, 802.540, 807.070 & 807.080

Stats. Implemented: ORS 807.070

Hist.: MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0027; MV 25-1989, f. & cert. ef. 10-3-89; MV 53-1989, f. & cert. ef. 12-1-89; MV 6-1990, f. & cert. ef. 4-2-90; MV 7-1991, f. & cert. ef. 7-16-91; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 2-2010, f. & cert. ef. 1-28-10; DMV 20-2010, f. 11-19-10, cert. ef. 1-1-11; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0073
Denial of Further Testing

DMV may refuse to continue a test or conduct further testing if the department determines that the person does not meet the qualifications for the class of license or endorsement for which the person is being tested. To show qualification for a license or endorsement, a person must demonstrate knowledge and understanding of the traffic laws of this state and must demonstrate the person's ability to operate a motor vehicle without endangering the safety of persons or property:

(1) A DMV employee may refuse to conduct or to continue a behind the wheel drive test if the employee reasonably believes that the person is likely to endanger persons or property while being tested.

(2) DMV may deny a drive test, and deny further testing, prior to the start of the test if there are observable reasons to believe the person may endanger the safety of persons or property during a drive test. Observable reasons to deny a drive test before starting the test may include but are not limited to the following:

(a) The person is visibly confused;

(b) The person is unable to follow simple directions needed to prepare for the drive test; or

(c) The person is unable to perform the safety check on the person's vehicle before beginning the drive test.

(3) DMV may immediately stop a drive test if the drive test examiner reasonably believes the person is likely to endanger persons or property. Reasons to immediately stop a drive test include, but are not limited to:

(a) An accident during the drive test which could have been avoided by the driver being tested;

(b) Dangerous driving behaviors including but not limited to the following:

(A) Failure to obey traffic control devices;

(B) Is prevented from causing an accident by the actions of other drivers or the examiner;

(C) Turns from the wrong lane or into the wrong lane in a way that it impedes the right of way of others;

(D) Fails to stop for a school bus that has its red lights flashing;

(E) Fails to yield to a pedestrian or fails to stop when another vehicle is stopped at a crosswalk because a person is occupying the crosswalk;

(F) Drives over a curb, sidewalk or median;

(G) Depends on the action of other drivers for his or her own safety; or

(H) Changes lanes or merges into traffic without checking for other vehicles.

(c) Is an experienced driver who is unable to perform basic driving tasks;

(d) Is unable to follow instructions to the point the drive examiner is not certain he or she can verbally guide the driver back to the DMV field office; or

(e) Seems unaware of driving mistakes made, takes no responsibility as mistakes are pointed out and shows a pattern of denial of any error.

(4) A DMV employee may use the guidelines in sections (2) and (3) of this rule, or other actions that occurred during a drive test, to refuse to conduct or continue testing and to recommend denial of further testing.

(5) Upon review of the DMV employee's recommendation and if DMV determines the person is likely to endanger persons or property during subsequent testing, DMV will deny further testing and will:

(a) Send to a person who has not been issued Oregon driving privileges a notice denying further testing. The person is not entitled to a contested case hearing; or

(b) Cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010 and 735-070-0020 if the person has been issued Oregon driving privileges.

(6) Someone who has been denied further testing under this rule must provide adequate proof to DMV that the person has taken steps to improve driving skills and as such can take a drive test without endangering the safety of persons or property. A person may provide proof, which may alone or in conjunction with other information constitute adequate proof, such as the following:

(a) Successfully complete a driver training course conducted by an ODOT certified commercial driver training school and submits proof of completion to DMV.

(b) Successfully complete a driver rehabilitation program conducted by a rehabilitation specialist and submits proof of completion to DMV.

(c) Submit a medical report form showing that a licensed physician, physician's assistant or nurse practitioner has conducted a diagnostic examination, showing to the satisfaction of the Medical Determination Officer that the person's physical or mental disease or disability has improved or is controlled, so that it does not impair the person's ability to safely operate a motor vehicle.

(d) Show proof that an adaptive device, such as hand controls, has been added to the vehicle and show some documentation that the person knows how to use and has practiced with the adaptive device(s).

(7) To satisfy the requirements of subsections (6)(a) or (b) of this rule, the proof submitted to DMV must include the following:

(a) The applicant's name and either a date of birth or Oregon driver license number;

(b) A certificate or statement from the driver training instructor or school, or the rehabilitation specialist that the person successfully completed a driver training course or a driver rehabilitation program; and

(c) The ODOT certification number of the commercial driver training school, or the rehabilitation program name, address, phone number and the name of the specialist who worked with the person.

(8) To obtain a driver license or endorsement, an applicant who has been denied further testing, or a person whose driving privileges have been cancelled under subsection (5)(b) of this rule, must meet the requirements of section (6) of this rule and must submit an application, pay all required fees, and establish all qualifications for the class of license or endorsement sought.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 807.070, 807.340 & 807.350

Hist.: DMV 3-2002, f. & cert. ef. 3-14-02; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-062-0078

Waiving Knowledge Test for Motorcycle Endorsement

Pursuant to ORS 807.072, DMV will waive the knowledge test for a motorcycle endorsement required by ORS 807.070(2) and OAR 735-062-0040 if the applicant presents a course completion card from a motorcycle rider education course established under ORS 802.320 if DMV has determined that the knowledge test given as part of the course is, at least, equivalent to the test given by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 and 807.072

Stats. Implemented: ORS 807.072

Hist.: DMV 3-2009, f. & cert. ef. 2-20-09

735-062-0080

Waiving Drive Test Portion of Driver License Examination

(1) DMV will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The applicant surrenders to DMV a driver license issued to the applicant by another state, the District of Columbia, a United States Territory, a Canadian Province or a jurisdiction with whom DMV has a reciprocity agreement and the driver license has not been expired for more than one year, or if the person's driver license issued by a jurisdiction listed above, has been lost or stolen, the applicant submits a letter of clearance, as required in OAR 735-062-0007.

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle.

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license.

(d) The applicant has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the applicant's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The applicant has no physical or mental condition that provides DMV with reason to question the applicant's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) In addition to section (1) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a Class C non-commercial vehicle required by ORS 807.070(3) if:

(a) The applicant passes a traffic safety education course approved by the Transportation Safety Division under ORS 802.345;

(b) The drive test administered during the traffic safety education course meets or exceeds the requirements of a Class C non-commercial drive test conducted by DMV; and

(c) The applicant provides a Driver Education Certificate of Completion card, as described in OAR 735-062-0140, that was issued within two years prior to the submission of an application for a Class C non-commercial driver license.

(3) DMV will waive the actual demonstration of an applicant's ability to operate a motorcycle if:

(a) The applicant surrenders to DMV a motorcycle-endorsed driver license issued to the applicant by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and

(b) The applicant meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(4) In addition to section (3) of this rule, DMV will waive the actual demonstration of an applicant's ability to operate a motorcycle if:

(a) The applicant passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle education course meets or exceeds the motorcycle skills test administered by DMV.

(5) Evidence of passing the motorcycle skills test identified in section (6) of this rule is a motorcycle education course completion card as provided for in OAR 735-062-0140. The completion card must have been issued within two years of application to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070, 807.072, 807.080 & 807.170

Stats. Implemented: ORS 807.070, 807.072, 807.080 & 807.170

Hist.: MV 61, f. 10-14-75, ef. 11-11-75; MV 15-1986, f. 9-16-86, ef. 10-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0045; MV 26-1988, f. & cert. ef. 11-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1990, f. & cert. ef. 8-16-90; MV 1-1991, f. & cert. ef. 3-18-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 6-1992(Temp), f. 5-29-92, cert. ef. 6-1-92; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 4-1995, f. & cert. ef. 3-9-95; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 1-2013, f. 1-17-13, cert. ef. 2-1-13; DMV 14-2013, f. & cert. ef. 9-24-13; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0085
Waiving Examination Requirements for Farm Endorsement

DMV may waive the examination requirements of an applicant for a farm endorsement if the applicant meets the qualifications specified in ORS 807.072(4) or (5) and is not disqualified from holding a farm endorsement under ORS 809.406. If the applicant has an accident(s) appearing on his or her driving record in the two years prior to the date of application, DMV may still waive the examination requirements if the applicant was not convicted of any offense relating to the accident(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 807.072(6)

Stats. Implemented: ORS 807.072 & 807.170

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12

735-062-0087
Restrictions on Driving Privileges

ORS 807.120 authorizes DMV to restrict driving privileges upon determining that there is good cause for a restriction. DMV finds good cause for a restriction of Class C non-commercial driving privileges in the following circumstances:

(1) A Restriction — Auto Trans non-CMV — When a person is unable to operate the foot controls or shift lever on a standard transmission equipped vehicle due to a physical impairment.

(2) B Restriction — Corrective Lenses — When a person uses corrective lenses to meet the vision standards as set forth in OAR 735-062-0050.

(3) F Restriction — Outside Mirror — When a person is deaf or has extremely limited hearing or when a person has no usable vision in the person's left eye.

(4) G Restriction — Daylight Driving Only — When a person's visual acuity is between 20/40 and 20/70 or if the person's vision specialist indicates of a Certificate of Vision form that the person should be restricted to daylight hours only.

(5) J Restriction — Variable — When at least one of the following restricted driving privileges applies to a person:

(a) When a person is restricted to specific routes, times and purposes of driving under a special permit. The special permit includes a hardship permit that allows limited driving during certain types of suspensions, a probationary permit that allows limited driving during a revocation as a habitual offender, or a student or emergency permit that allows driving for specific purposes to a limited number of eligible applicants.

(b) When a person is restricted to specific routes under a limited route restriction. A person's driver license may be restricted to specific limited routes when the person has demonstrated that the person can safely operate a motor vehicle on specific routes but is unable to demonstrate that the person is qualified for an unrestricted license.

(c) When a person is authorized by DMV's Driver Safety Case Management Unit to receive special instruction only. DMV may authorize a restricted privilege to take driving lessons under certain circumstances. A person may not drive a motor vehicle unless the person is driving with an instructor approved by DMV.

(d) When a person's motorcycle driving privileges are restricted to a three-wheeled cycle or one with a side-car. DMV will restrict the driving privileges granted under a motorcycle endorsement if the person tested in a three-wheeled motorcycle to operate only a three-wheeled motorcycle. DMV will restrict the driving privileges granted under a motorcycle endorsement if the person tested in a motorcycle with a side car to operate only a motorcycle with a side car.

(e) When DMV authorizes the person to operate only a motor vehicle equipped with specific equipment that does not have its own restriction code.

(6) R – Hand Controls – When a person uses hand controls to operate a motor vehicle. The motor vehicle must be equipped with a hand-operated accelerator, foot brake, dimmer switch and emergency brake.

(7) S – Turn Signals – When a person is incapable of using arm signals. The motor vehicle must be equipped with mechanical or electrical turn signals.

(8) U – Prosthetic Aid – When a person must use a prosthetic aid to operate the motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120

Stats. Implemented: ORS 807.120

Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0090
Renewal Driver Licenses and Identification Cards

(1) DMV will renew the driver license of a person who satisfies the requirements set forth in ORS 807.150.

(2) An applicant for the renewal of a driver license or identification card must:

(a) Provide a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005(2);

(b) Provide proof of legal presence as provided in OAR 735-062-0015;

(c) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and 735-062-0016; and

(d) Provide proof of identity and date of birth as provided in OAR 735-062-0020.

(3) An applicant for the renewal of a driver license or identification card that includes a change of residence address must present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. (Current residence address is the residence address to be included on the license or identification card to be issued.)

(4) DMV may renew an unexpired driver license or identification card up to 12 months prior to the expiration date.

(5) If a driver license has been expired more than one year, the applicant must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0007.

(6) Before processing a driver license renewal, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS) to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(7) If the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction, the applicant may not renew an Oregon driver license until the applicant submits a clearance letter that complies with OAR 735-062-0160 or a DMV inquiry to NDR/PDPS and CDLIS shows the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.

(8) Notwithstanding section (7) of this rule, DMV will renew the driving privileges of an applicant whose driving privileges are suspended, revoked, canceled or otherwise not valid in another jurisdiction if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.

(9) DMV will not renew an Oregon driver license or permit if the applicant has a current, valid Oregon identification card. To become eligible, the person must surrender the Oregon identification card before DMV will renew the Oregon driver license or permit. If the person's identification card is lost or the person no longer has the identification card in his or her possession, the person must provide a statement attesting to this fact.

(10) Notwithstanding subsection (2)(b) of this rule, DMV will renew a limited term driver license, limited term driver permit or limited term identification card to an applicant who otherwise qualifies for renewal under this rule and has provided proof of temporary legal presence in the United States as described in OAR 735-062-0015(4) that has been extended or is still in effect.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 807.021, 807.022, & 807.040
Stats. Implemented: ORS 802.012, 802.540, 807.021, 807.022, 807.040 - 807.060, 807.100, 807.15 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0009; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 4-2007, f. 5-24-07, cert. ef. 6-5-07; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 7-2008(Temp), f. & cert. ef. 2-22-08 thru 8-19-08; DMV 10-2008, f. & cert. ef. 4-24-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16; DMV 7-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17

735-062-0092
Mailing Driver Licenses, Driver Permits and Identification Cards

(1) DMV will mail a driver license, driver permit or identification card to the address provided by the applicant at the time of application.

(2) The delivery of the driver license, driver permit or identification card may be expedited if:

(a) The person requests expedited service at time of application;

(b) DMV determines that there is an opportunity to pull the license out of the normal mailing process in order to expedite delivery and otherwise approves the request; and

(c) The person pays additional monies to cover the cost of special handling and shipping.

(3) If the applicant does not receive the driver license, driver permit or identification card in the mail, it may by reissued by DMV at no-fee under the following circumstances:

(a) If the driver license, driver permit or identification card was returned to DMV as undeliverable and:

(A) It has been no more than 70 calendar days from the date the applicant was issued an interim card; and

(B) The applicant's current residence and/or mailing address has not changed from the address on the application; or

(b) If the driver license, driver permit or identification card has not been returned to DMV and:

(A) It has been at least 20 calendar days and less than 70 calendar days from the date the applicant was issued an interim card; and

(B) The applicant's current residence and/or mailing address has not changed from the address on the application; and

(C) DMV has not previously reissued the driver license, drive permit or identification card.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.024
Stats. Implemented: ORS 807.310 & 807.024
Hist.: DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 24-2008, f. 9-11-08, cert. ef. 10-1-08

735-062-0094
Interim Cards

(1) For purposes of this rule:

(a) "Interim identification card" means an applicant temporary identification card under 2005 Oregon Laws, Chapter 775, Section 10.

(b) "Interim driver card" means an applicant temporary driver permit under ORS 807.310 that grants the privilege of a commercial driver license, non-commercial driver license or driver permit with or without endorsement(s) depending on what the applicant has applied and qualified for.

(2) Once an applicant has met all requirements set forth in ORS 807.040 the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue an interim driver card for the applicant to use until the interim is invalid as described in section (5) of this rule.

(3) Once an applicant has met all requirements set forth in ORS 807.400 DMV will issue an interim identification card for the applicant to use until the interim is invalid as described in section (5) of this rule.

(4) DMV will issue an interim driver card or interim identification card for a period not to exceed 30 days.

(5) An interim driver card or interim identification card is invalid when:

(a) The driver license, driver permit or identification card is received in the mail;

(b) Driving privileges or rights to an identification card have been suspended, cancelled or revoked; or

(c) The interim driver card or interim identification card expires.

(6) A holder of an interim driver card must have the interim driver card on the holder's person while operating a motor vehicle. The interim driver card will indicate the class of license granted and any endorsements granted.

Stat. Auth.: ORS 184.616, 184.619, 802.010, Ch 775, OL 2005

Stats. Implemented: ORS 807.310, Ch 775, OL 2005
Hist.: DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07

735-062-0096
Surrendered Driver License, Driver Permit or Identification Card

(1) When DMV issues an interim driver card or an interim identification card to an applicant under OAR 735-062-0094 or an applicant temporary permit under ORS 807.310, DMV will invalidate and return the driver license, driver permit or identification card the applicant surrendered. An invalidated driver license or driver permit may not be used as proof of driving privileges, but is not deemed cancelled under ORS 801.175.

(2) DMV will invalidate a surrendered driver license, driver permit or identification card by hole-punching the card.

(3) The invalidated driver license, driver permit or identification card must be destroyed by the applicant when:

(a) A valid driver license, driver permit or identification card issued and mailed by DMV is received by the applicant; or

(b) Driving privileges or rights to an identification card have been suspended, cancelled or revoked.

(4) A foreign driver license that is surrendered under a reciprocity agreement with the country that issued the license will be handled as specified in the agreement.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.024, 807.045, 807.060, 807.150, 807.160, 807.310, 807.540, 807.550, 807.580
Hist.: DMV 6-2009, f. & cert. ef. 3-20-09; DMV 14-2014, f. & cert. ef. 12-1-14

735-062-0105
Waiver of Replacement License or Driver Permit Fee

For purposes of convenience, DMV will issue a replacement license or driver permit and waive the replacement fee if, after filing a change of address form, a customer does not receive the address change sticker and comes in person to a DMV field office.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.390
Stats. Implemented: ORS 807.160 & 807.390
Hist.: DMV 21-2001, f. & cert. ef. 10-18-01; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05

735-062-0110
Replacement Driver Permits, Driver Licenses, and Identification Cards

(1) DMV will issue a replacement driver permit, driver license or identification card for one of the reasons listed in section (2) of this rule if the applicant meets the requirements set forth in ORS 807.160 and this rule and the person is eligible for the driver license, driver permit or identification card.

(2) DMV may issue a replacement driver license, driver permit or identification card when the applicant:

(a) Furnishes proof satisfactory to the department of the loss, destruction or mutilation of the person's driver license, driver permit or identification card.

(b) Changes a residence address or mailing address from the address noted on the person's driver license, driver permit or identification card or adds a mailing address.

(c) Is a corrections officer, eligible employee, or household member of a corrections officer or eligible employee killed in the line of duty who has requested, in accordance with ORS 802.250 or 802.253, that department records show the address of the corrections officer's or eligible employee's employer.

(d) Changes names from the name noted on the person's driver license, driver permit or identification card.

(e) Is applying for or is required to add or remove a restriction on the person's driver license or driver permit.

(f) Is applying for or is required to add or remove an endorsement other than a motorcycle or farm endorsement on the person's driver license or driver permit.

(g) Requests that a veteran designation be added to or removed from his or her driver license, driver permit or identification card. To add a veteran designation, the applicant must provide proof the person is a veteran as set forth in OAR 735-062-0012(2).

(h) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing the person's driver license, driver permit or identification card.

(i) Surrenders the person's driver license that was issued without a photograph under OAR 735-062-0120 and requests a driver license with a photograph.

(j) Surrenders a driver license, driver permit or identification card to the department following a suspension and the person becomes eligible for driving privileges or an identification card.

(k) Has a driver license, driver permit or identification card that was confiscated by a police officer, a court or other agency and the person is eligible for a driver license, driver permit or an identification card.

(L) Requests to change any physical description, notation, photograph or signature on the driver license, driver permit, or identification card or to add or delete an anatomical donor designation.

(m) Has not received his or her driver license, driver permit or identification card in the mail and the applicant does not meet the requirements under OAR 735-062-0092(3) for a reissued driver license, driver permit or identification card.

(n) Has a reason satisfactory to DMV to be issued a driver license, driver permit or identification card with a different distinguishing number than the one being replaced.

(o) Requests a downgrade from one license class to another (e.g., a Commercial Driver License to a non-commercial Class C driver license).

(p) Requests to correct information on the driver license, driver permit or identification card that was provided to DMV in error.

(3) An applicant for a replacement driver license, driver permit, or identification card must:

(a) Provide a verifiable SSN, or proof that the person is not eligible for a SSN, as provided in OAR 735-062-0005(2);

(b) Provide proof of legal presence as provided in OAR 735-062-0015;

(c) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016; and

(d) Provide proof of identity and date of birth as provided in OAR 735-062-0020.

(4) An applicant for a replacement driver license, driver permit, or identification card that includes a change of residence address must also present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. Current residence address is the address where the person actually lives and DMV will include that address on the license, permit, or identification card issued.

(5) An applicant for a replacement driver license, driver permit, or identification card must surrender the license, driver permit or identification card replaced to DMV, if possible.

(6) Before issuing a replacement driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS) to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(7) If the applicant's driving privileges are suspended, revoked, canceled or otherwise invalid in any other jurisdiction, DMV will not issue a replacement driver license or driver permit until the applicant submits a clearance letter that complies with OAR 735-062-0160 or a DMV inquiry to the NDR/PDPS and CDLIS shows that the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.

(8) Notwithstanding section (7) of this rule, DMV will issue a replacement license or driver permit to an applicant whose driving privileges are suspended, revoked, canceled or otherwise invalid if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.

(9) Notwithstanding subsection (3)(c) of this rule, when an applicant applies for a replacement driver license, driver permit or identification card at a DMV office, DMV will issue the replacement driver license, driver permit or identification card using the applicant's previous photograph on file with DMV except in situations including, but not limited to, the following:

(a) The last photograph on file with DMV is older than nine years two months, or does not meet current quality standards for capturing a photograph as described in OAR 735-062-0016;

(b) The applicant requesting the replacement driver license, driver permit or identification card is between the ages of 21 and 27 and is not eligible for a renewal;

(c) The applicant is requesting the replacement driver license, driver permit or identification card because of a change in his or her physical appearance that may be considered significant;

(d) The applicant is requesting the replacement driver license, driver permit or identification card because he or she is changing the gender designation on record with DMV or applicant is changing his or her name as part of transitioning to the desired gender;

(e) The applicant is requesting the replacement driver license, driver permit or identification card after a suspension imposed under ORS 809.310(3)(a) or 809.310(3)(b) or 809.415(5) has been rescinded or reinstated.

(f) The applicant:

(A) Will not be in this state for circumstances constituting "good cause" under OAR 735-062-0125 when the applicant's driver license, driver permit or identification card must be renewed; and

(B) Is applying for the replacement driver license, driver permit or identification card to update the applicant's photograph on file with DMV so he or she will be eligible for issuance of a Valid with Previous Photograph renewal as authorized under OAR 735-062-0125.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.160

Stats. Implemented: ORS 807.160, 807.021, 807.220, 807.230, 807.280 & 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0013; DMV 24-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 24-2008, f. 9-11-08, cert. ef. 10-1-08; DMV 19-2010, f. 10-25-10, cert. ef. 1-1-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 11-2015, f. 12-17-15, cert. ef. 1-1-16; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0115

Non-Issue of a Driver License Following Confiscation

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will not issue a driver license to a person whose driving record indicates a pending Implied Consent Law suspension under ORS 813.100.

(2) DMV will issue a temporary driving permit, Form 45, instead of a driver license if the person is eligible for driving privileges.

(3) The permit issued under section (2) of this rule is valid until the Implied Consent Law suspension takes effect or until the person's driver license expires.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 813.110

Stats. Implemented: ORS 807.160, 813.100 & 813.110

Hist.: MV 5-1990, f. & cert. ef. 3-5-90; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05

735-062-0120

Standards for Issuance of Driver's Licenses Without a Photograph

(1) DMV may, upon receipt of a written request, and for good cause, provide for issuance of a valid driver license without a photograph to any person qualified to hold an Oregon driver license:

(a) Who is a member of a religious denomination that prohibits photographing of its members because it is contrary to its religious tenets;

(b) Whose religious beliefs require the person to wear a head covering, clothing or similar material that partially or completely covers the person's face, preventing the person from being photographed as described in OAR 735-062-0016(3);

(c) Who has severe facial disfigurement; or

(d) Who is stationed outside of this state while in the active military service in the Armed Forces of the United States or the National Guard, and the department is unable to issue the driver license using the previous photo on file as provided under OAR 735-062-0125.

(2) In addition to satisfying the requirements of section (1), an applicant for issuance of a driver license under this rule must:

(a) Provide a verifiable SSN, or proof of ineligibility for a SSN, as provided in OAR 735-062-0005;

(b) Provide proof of legal presence as provided in OAR 735-062-0015;

(c) Provide proof of identity and date of birth as provided in OAR 735-062-0020; and

(d) Provide proof of residence address as provided in OAR 735-062-0030(1).

(3) An applicant applying for a replacement or renewed driver license under section (1)(d) of this rule must also provide proof of being a resident of or domiciled in Oregon as described in OAR 735-016-0040.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.110

Stats. Implemented: ORS 807.110

Hist.: MV 80, f. & ef. 10-4-77; MV 15-1986, f. 9-16-86, ef. 10-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0038; DMV 21-2001, f. & cert. ef. 10-18-01; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 17-2010, f. & cert. ef. 9-27-10; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 11-2015, f. 12-17-15, cert. ef. 1-1-16

735-062-0125

Standards for Issuance of a Renewal or Replacement Driver License, Driver Permit or Identification Card Containing a Previous Photograph

(1) DMV may renew or replace a person's driver license, driver permit or identification card, in accordance with applicable statutes authorizing renewal or replacement, by issuing a renewal or replacement driver license, driver permit or identification card containing a photograph of the person already on file with DMV, if the applicant:

(a) Provides proof that he or she is a resident of or domiciled in Oregon as described in OAR 735-016-0040;

(b) Provides proof or previously has proven legal presence in the United States as required by OAR 735-062-0015. An applicant who has not previously provided proof to DMV of legal presence in the U.S. may provide a copy, satisfactory to DMV, of one or more documents required by OAR 735-062-0015(2), (3) or (4).

(c) Provides his or her SSN on the application form as required under OAR 735-062-0005. DMV will verify the SSN with the SSA unless the SSN provided has previously been verified;

(d) Submits a written statement to DMV establishing good cause why he or she is not able to appear and apply for the renewal or replacement driver license, driver permit or identification card at a DMV office;

(e) Provides proof that he or she is, in fact, the person to whom the driver license, driver permit or identification card to be renewed or replaced was issued; and

(f) Meets all other qualifications for the driver license, driver permit or identification card sought.

(2) Circumstances constituting "good cause" for purposes of subsection (1)(d) of this rule include, but are not limited to, the following:

(a) The applicant is temporarily in another jurisdiction or country for business reasons, employment or education, will be returning to Oregon, and continues to satisfy Oregon's residency requirements.

(b) The applicant is traveling outside of Oregon and the applicant's Oregon driver license, driver permit or identification card is lost, stolen or mutilated;

(c) The applicant is traveling outside of Oregon and the applicant's Oregon driver license, driver permit or identification card has expired or will expire before the person returns to Oregon; or

(d) The applicant has a medical condition or health problems that prevent him or her from applying for a renewal or replacement driver license, driver permit or identification card at a DMV field office and submits to DMV proof of the medical condition or health problems from the applicant's licensed health care provider.

(3) DMV will not issue a valid with previous photograph replacement or renewal driver license, driver permit or identification card to an otherwise qualified applicant, if the applicant makes a request to change name, date of birth or SSN.

(4) DMV will not issue a valid with previous photograph renewal driver license, driver permit or identification card to a person who provided proof of being legally present in the United States on a temporary basis under ORS 735-062-0015(5).

(5) Notwithstanding section (1) of this rule, DMV may issue a renewal or replacement driver license, driver permit or identification card containing a photograph of the applicant already on file with DMV, if the applicant has an Oregon driver license, driver permit or identification card and is on active duty in the United States Armed Forces stationed outside of Oregon who provides a copy of his or her:

(a) Most current Leave Earning Statement showing Oregon as his or her home on record;

(b) Federally-issued active duty Military identification card; and

(c) SSN to be verified with the SSA, if not previously verified.

(6) A spouse, domestic partner or dependent of a military person on active duty in the United States Armed Forces outside of Oregon who qualifies under section (5) of this rule, who has an Oregon driver license, driver permit or identification card may qualify for a renewed or replaced driver license, driver permit or identification card using the previous photograph, if the spouse, domestic partner or dependent provides a copy of the following:

(a) The military member's most current Leave Earning Statement showing Oregon as his or her home on record;

(b) The military member's active duty Military identification card;

(c) The spouse, domestic partner or dependent's Military identification card; and

(d) The spouse, domestic partner or dependent's Social Security number. DMV must verify the SSN with the SSA, if not previously verified.

(7) Notwithstanding section (3) of this rule, DMV may issue a renewal or replacement driver license, driver permit or identification card with a name change to an applicant who provides sufficient proof of full legal name as required by OAR 735-062-0014 and otherwise qualifies for a valid with previous photograph driver license, driver permit or identification card under section (5) or (6) of this rule.

(8) A replacement driver license, driver permit or identification card issued at a DMV office will contain the applicant's previous photo on file unless the applicant qualifies for a new photograph as defined in OAR 735-062-0110(10).

(9) DMV will not replace or renew a driver license, driver permit or identification card under this rule, if the applicant's most recent photograph on file with DMV is more than nine years and two months old.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.110
Stats. Implemented: ORS 807.110 & 807.400
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 14-2014, f. & cert. ef. 12-1-14; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0130
Issuance of a Replacement Driver License, Driver Permit or Identification Card with a New Number

(1) For purposes of this rule:

(a) "Customer number" means the distinguishing number assigned to a driver license, driver permit or identification card;

(b) "Fraudulent use" means the use of another person's name and customer number for the purpose of misrepresenting a person's identity in order to commit the crime of identity theft, to receive financial gain, or to avoid legal responsibility after committing an offense. Examples include but are not limited to:

(A) Fraudulent use of a person's name and customer number to open a bank account, order checks or cash a forged check;

(B) Fraudulent use of a person's name and customer number to open a credit card account; or

(C) Giving another person's name and customer number to a police officer who is enforcing the motor vehicle laws in order to avoid legal responsibility for a traffic offense, resulting in a conviction(s) being posted to the other person's driving record.

(2) Upon request, the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) will issue a person a replacement driver license, driver permit or identification card with a different customer number if the person provides evidence satisfactory to DMV to show:

(a) The fraudulent use of the person's name and customer number; or

(b) That the person is a victim of abuse, stalking, or physical violence and the person is taking steps to protect his or her identity including a legal name change.

(3) Evidence submitted to DMV of the fraudulent use of a name and customer number must show that both the name and the customer number have been used for a fraudulent purpose. The person must provide at least one of the following types of documents:

(a) A copy of a police report or letter from a police agency;

(b) A report or letter from a credit card company, credit reporting bureau or financial institution;

(c) A report or letter from the Oregon Department of Revenue or Internal Revenue Service;

(d) A document issued by a Court; or

(e) A letter from a District Attorney.

(4) A person who is the victim of abuse, stalking, or physical violence must provide a court judgment showing a legal name change and at least one of the following types of documents that show the person has been a victim of abuse, stalking, or physical violence:

(a) A copy of a police report or letter from a police agency;

(b) A document issued by a Court;

(c) A letter from a District Attorney;

(d) A letter or report from a state agency or a community crisis center for domestic violence or physical or sexual abuse; or

(e) A letter or report from a physician, physician assistant, nurse practitioner, psychologist, licensed clinical social worker or licensed professional counselor who provided treatment or counseling services to the person.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.160, 807.400
Stats. Implemented: ORS 807.160, 807.400
Hist.: MV 26-1989, f. & cert. ef. 10-3-89; DMV 30-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thur 6-29-06; DMV 1-2006, f. & cert. ef. 2-15-06

735-062-0135
Voluntary Surrender of Driving Privileges

A person may surrender all or part of the driving privileges granted to that person by the State of Oregon, through the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV).

(1) To surrender all or part of a person's driving privileges, that person must sign a DMV form and must surrender to DMV any license or permit issued for the driving privilege. DMV will allow the person to surrender all driving privileges, or part of the driving privileges granted to that person under any class of license, endorsement or driver permit.

(2) When driving privileges are surrendered, the driving privileges are immediately withdrawn and the person is no longer authorized to operate vehicles pursuant to those driving privileges. A person who surrenders all driving privileges may not exercise any driving privileges, except those granted by statute under ORS 807.020. A person who surrenders part of the person's driving priv-

ileges may exercise only those driving privileges retained. Operation of a vehicle on Oregon highways or premises open to the public without appropriate driving privileges is a violation of law under ORS 807.010.

(3) In accordance with OAR 735-062-0010, DMV may issue an identification card to a person who has surrendered all driving privileges.

(4) If the person surrenders all driving privileges and declares on DMV form 735-7206 that he or she is no longer able to safely operate a motor vehicle, DMV will rescind any suspension imposed under OAR 735-074-0140 or 735-076-0020.

(5) A person may surrender only part of the driving privileges granted by DMV by canceling any endorsements or driver permits granted to the person. The person must specify those driving privileges the person seeks to surrender. A person who surrenders an endorsement must pay the renewal or replacement license fee for issuance of a license that reflects the driving privileges the person retains.

(6) Surrender of driving privileges means the driving privileges are canceled as defined in ORS 801.175(2). When a voluntary surrender of driving privileges is accepted, DMV will cancel driving privileges without providing further notice or an opportunity for hearing to the person. The person's driving record will show that the driving privileges have been surrendered.

(7) A person who seeks to regain surrendered driving privileges must reapply for the privileges and establish eligibility and qualification as provided by law, including payment of all required fees.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.419
Stats. Implemented: ORS 802.010(1)(c), 809.419
Hist.: DMV 1-2003, f. & cert. ef. 2-13-03; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 17-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 12-2013, f. & cert. ef. 9-24-13

735-062-0140
Proof of Completion of a Traffic Safety Education or Motorcycle Education Course

(1) For purposes of waiving the Class C drive test DMV will only accept a Driver Education Certificate of Completion card issued by a traffic safety education course approved by the Transportation Safety Division. The Driver Education Certificate of Completion card must be in the format designed and approved by the Transportation Safety Division.

(2) For purposes of issuing a motorcycle endorsement DMV will only accept a course completion card from a motorcycle rider education course established under ORS 802.320. The course completion card must be issued within two years of application.

(3) As proof of completion of a motorcycle education course, DMV will accept a course completion card, which minimally includes:

(a) The applicant's name;
(b) The name of the course completed;
(c) The date of the course;
(d) Where the course was taken;
(e) The signature of the instructor; and
(f) The instructor's certification number.

Stat. Auth.: ORS 184.616, 184.619 & 807.175
Stats. Implemented: ORS 807.170 & 807.175
Hist.: MV 27-1989, f. & cert. ef. 10-3-89; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1998, f. & cert. ef. 6-19-98; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 14-2013, f. & cert. ef. 9-24-13

735-062-0160
Clearance Letter

(1) A clearance letter referred to in OAR 735-062-0007, 735-062-0080(1)(c) or (3)(c) and 735-062-0090 is a letter or Request for Verification of Driver License Status (DMV Form 6600) completed by another jurisdiction indicating the status of the person's driving privileges in that jurisdiction.

(2) A clearance letter, as provided in section (1) of this rule, must include the:

(a) Applicant's name;
(b) Applicant's date of birth;
(c) Out-of-jurisdiction license number;
(d) Expiration date of the out-of-jurisdiction license;
(e) Status of person's driving privilege including any endorsements, i.e., valid, expired, suspended, revoked, canceled or otherwise not valid. The letter must include the reason for the suspension, cancellation or revocation, the beginning date of suspension, revocation or cancellation, requirement(s) for reinstatement and the date the person's license will be eligible for reinstatement;
(f) A means of identifying the jurisdiction providing the clearance letter such as letterhead stationery; and
(g) The date the clearance letter was completed.

(3) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will allow a person whose driving privilege is suspended, revoked, canceled or otherwise not valid to complete certain requirements in this state if the other jurisdiction will accept the Oregon results and issue a clearance letter stating the person's driving privilege is valid in that jurisdiction. The person may complete:

(a) Vision, knowledge or behind-the-wheel tests;
(b) Remedial training or schools;
(c) Medical, alcohol or other evaluation.

(4) It is the applicant's responsibility to provide a clearance letter as required by this rule. A facsimile of a clearance letter is acceptable only if the clearance letter is received by DMV directly from the driver licensing agency in the other jurisdiction. Telephone clearances and Law Enforcement Data System (LEDS) teletype clearances are not acceptable.

(5) A clearance letter submitted to DMV will only be valid for issuance of a driver license for 60 days following the date it was completed by the other jurisdiction.

Stat. Auth.: ORS 802.010, 802.200, 802.540, 807.040, 807.045, 807.050, 807.060, 807.070, 807.150, 807.170 & 809.310
Stats. Implemented: ORS 807.050
Hist.: MV 14-1992, f. & cert. ef. 10-16-92; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05

735-062-0190 [Renumbered to **735-063-0290**]

735-062-0210 [Renumbered to **735-063-0310**]

735-062-0220
Additional Fee for Collection and Verification of Biometric Data

(1) As provided in ORS 807.375, a $3 fee will be added to the motorcycle and farm endorsement fee imposed under 807.370 if that endorsement is not added during the issuance or renewal of other privileges.

(2) The additional fee, along with fee increases in statute to begin July 1, 2008, covers the cost of purchasing equipment and establishing and maintaining a database used for collecting and verifying biometric data.

Stat. Auth.: ORS 184.616, ORS 184.619, 802.010, 807.375
Stats. Implemented: ORS 807.024, 807.370 and 807.410
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08

735-062-0290
Issuance, Replacement or Renewal of Undercover Driver Licenses or Identification Cards to Law Enforcement Officials

(1) For purposes of Oregon Laws 2009, Chapter 258, Section 4 and this rule:

(a) A "law enforcement agency" or "agency" is a county sheriff, city or municipal police department, Oregon State Police, a district attorney, the Criminal Justice Division of the Department of Justice, or an equivalent law enforcement agency of another state or the federal government;

(b) A "law enforcement official" or "official" is a certified peace officer who is performing undercover criminal investigative duties for a law enforcement agency.

(2) DMV will issue, replace or renew a fictitious driver license or fictitious identification card to a law enforcement official upon:

(a) Approval of an application submitted by the law enforcement agency for which an official is providing undercover criminal investigative duties; and

(b) Payment of the fees for a driver license or identification card as set forth in ORS 807.370, 807.375, and 807.410.

(3) For purposes of section (2) of this rule, an application for the issuance, replacement or renewal of a fictitious driver license or fictitious identification card must:

(a) Be submitted by the law enforcement agency that employs the official, or if the official is on a special assignment with another agency, such as an inter-agency task force, may be submitted by the agency for which the official is performing undercover criminal investigative duties;

(b) Be on official agency letterhead or on DMV Form 735-7343, Oregon DMV Undercover Driver License/Identification Card Request;

(c) Contain proof that the official is a certified peace officer. Such proof includes, the official's badge number or Department of Public Safety Standards and Training (DPSST) number, an equivalent identifying number from another state or the federal government or other verifiable proof of certification;

(d) Provide the following information:

(A) The official's true name, date of birth, driver license or identification card number and state of issuance;

(B) The information that will be used on the official's fictitious driver license or identification card and fictitious DMV record, including name, address, date of birth, hair color, eye color, height and weight, and mother's maiden name;

(C) The class of license and endorsement requested. The official must already have qualified for and been issued the license class or endorsement type requested; and

(D) The mailing address, telephone number and if applicable, the Originating Agency Identifier (ORI) of the law enforcement agency.

(e) Indicate whether the request is for issuance, replacement or renewal of a fictitious driver license or identification card; and

(f) Be signed by the Sheriff, Chief of Police, Superintendent or agency head, or his or her designee.

(4) The DMV Confidential Records Desk will review the application. When approved, an appointment with the official will be scheduled to issue the fictitious driver license or identification card. A fictitious driver license or identification card will only be issued from DMV Headquarters. For verification purposes, at the appointment the official must provide proof of his or her true identity and badge number, DPSST number or equivalent certification number as described in section (5)(c) of this rule.

(5) A fictitious driver license or fictitious identification card must be surrendered to the DMV Confidential Records Desk when the official is no longer performing undercover criminal investigative duties for the law enforcement agency requesting the fictitious license or identification card.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & Sec. 4, Ch. 258, OL 2009
Stats. Implemented: Sec. 4, Ch. 258, OL 2009
Hist.: DMV 3-2010, f. & cert. ef. 1-28-10

735-062-0300
Purpose

ORS 807.355 — 807.369 allows persons with a limited vision condition to gain limited driving privileges if certain criteria are met. The purpose of OAR 735-062-0300 through 735-062-0390 is to establish a program for the licensing of persons with a limited vision condition, specify requirements and qualifications needed for a person to be certified by DMV as a rehabilitation training specialist for purposes of training a person with a limited vision condition to use bioptic telescopic devices while driving, and to establish requirements for a certified rehabilitation training specialist to certify the competency of a person with a limited vision condition to safely exercise driving privileges using a bioptic telescopic lens.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.368
Stat. Implemented: ORS 807.355, 807.359, 807.363, 807.368 & 807.369
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0310
Definitions

The following definitions apply to OAR 735-062-0300 to 735-062-0390:

(1) "Bioptic telescopic lens" means an optical system used to magnify distant objects by including a small telescope that is mounted in or above a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;

(2) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;

(3) "Daylight hours" means the period of time from sunrise to sunset but does not include periods where adverse weather or other conditions significantly reduce visibility on the roadway;

(4) "Educational facility" includes any public school district, education service district, community college district, any facility for the deaf operated under ORS 346.010, the Hillcrest School of Oregon, MacLaren School for Boys, tribal schools, state and federal schools, public agencies, and any parochial, private-or home-school facility meeting the requirements of OAR 581-045-0535 and ORS 345.505.

(5) "Limited vision condition" means visual acuity in the better eye with best lens correction that is no better than 20/80 and no worse than 20/200.

(6) "Rehabilitation training program" means a program designed to train a person with a limited vision condition to use a bioptic telescopic lens while operating a motor vehicle.

(7) "Rehabilitation training specialist" or "specialist" means a person certified by the Department of Transportation to provide a rehabilitation training program;

(8) "Report of Limited Vision Examination" (DMV Form Number 735-24A) means a certification completed by a licensed vision specialist (ophthalmologist or optometrist) that a person with a limited vision condition meets the requirements under ORS 807.359.

(9) "Special limited vision condition learner's permit" means a permit issued by the department to a person with a limited vision condition that allows the person to enroll in a rehabilitation training program; and

(10) "TSD" means the Oregon Department of Transportation, Transportation Safety Division.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.368
Stats. Implemented: ORS 807.355, 807.359, 807.363, 807.368 & 807.369
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 20-2009, f. & cert. ef. 10-27-09; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0320
Special Limited Vision Condition Learner's Permit

(1) DMV will issue a special limited vision condition learner's permit when:

(a) An applicant has submitted a report from a licensed vision specialist certifying that the person meets the visual standards set forth in ORS 807.359, has been fitted with a bioptic telescopic lens mounted on or above a carrier lens, and would be aided by using a bioptic telescopic lens when operating a motor vehicle;

(b) An applicant submits proof to DMV that the person has been accepted and has enrolled in a rehabilitation training program with a specialist certified by DMV to train persons with a limited vision condition using a bioptic telescopic lens to drive;

(c) An applicant has passed the knowledge test required under ORS 807.070(2); and

(d) An applicant pays a $13 fee, as required by ORS 807.370.

(2) The special limited vision condition learner's permit will:

(a) Be valid for six months;

(b) Be in the form of a letter rather than a laminated card with picture;

(c) Specify that the applicant may only drive when accompanied by the specialist(s) named on the permit;

(d) Include the following restrictions:

(A) Driving during daylight hours only; and

(B) The person must wear a bioptic telescopic lens device while driving.

(e) Be mailed to the rehabilitation training program with which the applicant has enrolled.

(3) If a person discontinues the required training or fails to make satisfactory progress toward a Certificate of Competency, the specialist must notify DMV immediately with a recommendation to terminate or extend the person's training program.

(4) If the specialist's recommendation is to terminate the applicant's training program or the applicant withdraws from the program, DMV will cancel the special limited vision condition learner's permit issued to the applicant. If the permit is cancelled, the applicant must reapply for a new permit and satisfy all the requirements set forth in section (1) of this rule. Knowledge test scores remain valid for two years.

(5) If the specialist's recommendation is to extend the applicant's training program, DMV will re-issue a special limited vision condition learner's permit for an additional six-month period if the applicant provides proof of continued enrollment in a rehabilitation training program, as set forth in subsection (1)(b) of this rule, and pays a $13 fee.

(6) A copy of the special limited condition learner's permit must be kept in the applicant's file at the school offering the rehabilitation training program.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.350 & 807.368
Stats. Implemented: ORS 807.355 – 807.368
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 18-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 12-2008, f. 6-23-08, cert. ef. 7-1-08

735-062-0330
Training Program for the Use of Bioptic Telescopic Lenses to Drive

(1) The training program for a person issued a special limited vision condition learner's permit consists of three parts: theoretical instruction; practical training in critical object or condition awareness skills and use of a bioptic telescopic device; and behind-the-wheel training while using a bioptic telescopic lens. The amount of training required is dependent upon the person's skill and will vary with driving experience and other factors. The specialist may determine which type of training is necessary and the number of hours required for each type, but except as provided in section (2) of this rule, must provide a minimum of six hours of practical training and 15 hours of behind-the-wheel training while using a bioptic telescopic lens to all limited vision condition drivers. No behind-the-wheel training can be conducted prior to the rehabilitation training program receiving the person's special limited vision condition learner's permit from DMV in the mail.

(2) Notwithstanding the minimum training requirements set forth in section (1) of this rule, a person who has never been issued a driver license must be provided a minimum of 30 hours theoretical training, six hours of practical training and 24 hours of behind-the-wheel training.

(3) Notwithstanding the minimum training requirements set forth in section (1) of this rule, a person who has been issued a driver license using the bioptic telescopic lens from another jurisdiction must be provided a minimum of two hours training. The specialist will assess and determine type and length of training required based on the experience and demonstration of safe driving.

(4) Theoretical instruction may include but not be limited to the following:

(a) Subject matter contained in the Oregon Driver's Manual;

(b) Safe driving practices and traffic laws;

(c) The "Search, Identify, Predict, Decide, Execute" (SIPDE) approach to perceptive driving;

(d) Signs, signals, highway markings, and highway design features required for the safe operation of a motor vehicle;

(e) Driving emergencies such as brake or tire failure, skidding, stuck accelerator, and running off the roadway;

(f) Potential crash locations and situations such as intersections, hydroplaning, railroad crossing, multiple vehicle types in the traffic mix, and pedestrian traffic;

(g) Occupant restraint usage;

(h) Speeding as a major contributing factor in vehicle crashes; and

(i) Driver responsibility and accident reporting.

(5) Practical training must include, but not be limited to, passenger-in-car training that reinforces defensive driving skills, use of mirrors and blind spot checks, critical object or condition awareness (roadway characteristics, traffic control devices and other road users), proper and appropriate use of the bioptic telescopic lens system, and hazard perception skills. By the end of training the person will need to demonstrate the ability to change fixation in and out of his or her bioptic telescope effectively in one to two seconds or less per fixation, under stationery and dynamic conditions.

(6) Behind-the-wheel training must include demonstration, instruction and practice while using a bioptic telescopic lens, consisting of:

(a) Stopping;

(b) Starting;

(c) Recognizing and responding appropriately to traffic control devices, roadway markings, pedestrians, vehicles and other changes in the driving environment;

(d) Lane position;

(e) Controlling speed;

(f) Managing space around the vehicle by adjusting speed and position to avoid conflicts and reduce risk;

(g) Turning, including right and left turns at protected and unprotected intersections;

(h) Backing;

(i) Parking;

(j) How to enter, use and exit different types of intersections;

(k) Safe and courteous driving behavior;

(L) Driving in residential, business, light and heavy traffic situations; and

(m) Dealing with the unexpected — road construction, emergency vehicles, etc.

(7) In addition to the training described in sections (5) and (6) of this rule, practical and behind-the-wheel training may include a nighttime driving training program. A nighttime program must consist of at least two hours of behind-the-wheel training after dark in both well lit and poorly lit areas and on varying types of roadways, such as city streets, residential streets, highways and country roads, while using a bioptic telescopic lens.

(8) No behind-the-wheel nighttime driving training may be conducted prior to the rehabilitation training program receiving the following from DMV:

(a) A special limited vision condition learner's permit without a driving during daylight hours only restriction, as described in OAR 735-062-0390(1); or

(b) A modified restriction letter allowing the person to drive at night with a rehabilitation training specialist, as described in OAR 735-062-0390(2).

(9) To successfully complete a nighttime driving training program, the rehabilitation specialist providing the training must certify the person is able to safely operate a motor vehicle at night while using a bioptic telescopic lens.

Stat. Auth.: ORS 184.616, 184.619 & 807.368
Stat. Implemented: ORS 807.355, 807.359, 807.363, 807.368 & 807.369
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 18-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-062-0340
Qualifications to be Certified by DMV as a Rehabilitation Training Specialist

DMV will certify a person to be a rehabilitation training specialist for the express purpose of training limited vision condition applicants using a bioptic telescopic lens when the applicant meets the following qualifications:

(1) Has successfully completed the following three courses approved by TSD:

(a) Foundation of Traffic Safety Education;

(b) Fundamentals of Behind-the-Wheel Instruction; and

(c) Fundamentals of Classroom Traffic Safety Instruction;

(2) Has either:

(a) A current valid certification by DMV as a commercial driver training instructor; or

(b) Approval by TSD as an educational facility traffic safety education instructor;

(3) Is currently employed by or works as an independent contractor for either:

(a) A DMV certified drive school operator that offers or proposes to offer a driver training program for persons with a limited vision condition who use a bioptic telescopic lens; or

(b) An education facility that offers or proposes to offer a driver training program for persons with a limited vision condition who use a bioptic telescopic lens.

(4) Has a minimum of 1000 hours of experience conducting behind-the-wheel driver training; and

(5) Has enrolled in and successfully completed either:

(a) A DMV sponsored or approved course that addresses how to screen, train and assess the driving potential of persons with a limited vision condition who use a bioptic telescopic lens; or

(b) A DMV approved training program with a certified rehabilitation training specialist or an equivalent specialist in another state that includes at least 20 hours of observation and learning experiences in how to screen, train and assess the driving potential of persons with a limited vision condition who use a bioptic telescopic lens.

(6) If the person has been previously certified as a rehabilitation training specialist, but that certification is canceled, the person is not eligible for re-certification for three years after the effective date of the cancellation.

Stat. Auth.: ORS 184.616, 184.619 & Sec. 5, Ch. 277. OL 2003
Stat. Implemented: Ch. 277, OL 2003
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04

735-062-0350
Rehabilitation Training Specialist Certificates

DMV will issue a certificate to a person DMV certifies as a rehabilitation training specialist.

(1) The certificate will:

(a) Include the name of the school for which the specialist is an instructor;

(b) Be valid for the calendar year in which it is granted;

(c) Include a unique certification number; and

(2) If the person's is certified as a commercial driver training instructor and that certificate is suspended, revoked, or not renewed for any reason, the same action will apply to the person's rehabilitation training specialist certificate.

(3) A specialist who is not a certified commercial driver training school instructor will lose certification as rehabilitation training specialist if that person is no longer approved by TSD.

(4) If the person is certified as a commercial driver training instructor that certificate will not be affected if the person's rehabilitation training specialist certificate is suspended for violation under OAR 735-062-0360.

(5) The rehabilitation training specialist certificate must be displayed in the school business location. A copy of the certificate must be kept in the rehabilitation specialist file maintained by the school.

Stat. Auth.: ORS 184.616, 184.619 & Sec. 5, Ch. 277. OL 2003
Stat. Implemented: Ch. 277, OL 2003
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04

735-062-0360
Regulation of Rehabilitation Specialists and Programs Offered

DMV will regulate a person certified as a rehabilitation training specialist as well as the training program that the specialist provides to persons issued a special limited vision condition learner's permit.

(1) DMV may, without prior notice, send a representative to observe any part of the training given by a specialist to a person with a limited vision condition who uses a bioptic telescopic lens. If DMV determines that the training provided does not meet the requirements of OAR 735-062-0330 DMV may:

(a) Issue a written warning describing areas that must be improved within 30 days or the rehabilitation training specialist certificate will be suspended until improvement is made; or

(b) Require the person to attend more training on the usage of bioptic telescopic lens for driving, within three months, in order to retain the rehabilitation training specialist certificate.

(2) The specialist must provide records to the school for a driver with telescopic lens to be retained as required for any other student of the commercial driver training school or educational facility.

(3) A specialist must not provide behind-the-wheel training to the person with a limited vision condition until the person's special limited vision condition learner's permit is received. A failure to comply with the restriction of the special limited vision condition learner's permit will result in the sanctioning of the rehabilitation training specialist certificate as follows:

(a) A 30-day suspension for the first offense;

(b) A 60-day suspension for the second offense within a three year period; and

(c) Cancellation for the third offense within a three year period.

(4) Failure to comply with OAR 735-062-0320(6), 735-062-0350(5), or 735-062-0360(2) will result in:

(a) For a first offense a written warning;

(b) For a second offense a suspension of the rehabilitation specialist certificate for five days;

(c) For a third offense a suspension of the rehabilitation driver training specialist certificate for 30 days.

(5) If a limited vision condition applicant is unable to pass a DMV drive test in two attempts, DMV may question the validity of the Certificate of Competency issued by the specialist. DMV may require the specialist to accompany the applicant and a DMV representative on a drive. If the applicant clearly does not demonstrate driving ability to be issued a Certificate of Competency as described in OAR 735-062-0370, DMV may suspend the rehabilitation specialist certificate until the specialist can show that he or she has attended additional specific instruction in the training of limited vision condition drivers using a bioptic telescopic lens deemed acceptable by DMV or the emphasis of the training has changed to properly train a limited vision condition driver.

Stat. Auth.: ORS 184.616, 184.619 & Sec. 5, Ch. 277. OL 2003
Stat. Implemented: Ch. 277, OL 2003
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04

735-062-0370
Issuance of Certificate of Competency

(1) Before DMV will issue a driver license or driver permit to a person with a limited vision condition, a specialist must issue a Certificate of Competency showing the person has successfully completed a rehabilitation training program.

(2) To issue a Certificate of Competency, the specialist must certify the person:

(a) Has successfully completed a rehabilitation training program;

(b) Has demonstrated the physical, mental and social driving skills necessary to safely operate a motor vehicle in a manner that does not increase the likelihood of hazard or collision under the restricted driving conditions allowed for a driver with a limited vision condition; and

(c) Is able to effectively use the bioptic telescopic lens for visual assistance in safely operating a motor vehicle.

Stat. Auth.: ORS 184.616, 184.619 & Sec. 5, Ch. 277. OL 2003
Stat. Implemented: Ch. 277, OL 2003
Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04

735-062-0380
Issuance of a Permit or Driver License to a Person with a Limited Vision Condition

When a person with a limited vision condition has successfully completed a rehabilitation training program as described in OAR 735-062-0320(1)(b), and has received a certificate of competency from the specialist who conducted the person's training, the person may apply to DMV for an instruction permit or a driver license. To

obtain an instruction permit or driver license, the person must meet all applicable requirements, except the eyesight check described in OAR 735-062-0050.

(1) To be issued a driver license, the person must successfully pass the drive test described in OAR 735-062-0070 and pay all required fees.

(2) DMV will issue a restricted driver license or instruction permit to a person with a limited vision condition as follows:

(a) Driving during daylight hours only, except as provided in OAR 735-062-0390; and

(b) The person must wear a bioptic telescopic lens device while driving.

(3) An instruction permit allows the person to operate a motor vehicle only when accompanied by a licensed driver at least 21 years of age.

Stat. Auth.: ORS 184.616, 184.619, Sec. 5, Ch. 277. OL 2003, Ch. 588, OL 2007

Stat. Implemented: Ch. 277, OL 2003, Ch. 588, OL 2007

Hist.: DMV 15-2004, f. 6-24-04, cert. ef. 7-1-04; DMV 18-2007, f. 12-24-07, cert. ef. 1-1-08

735-062-0385
A Person with a Limited Vision Condition Must Qualify Every Two Years

(1) Beginning two years from the date of issuance and at least every two years thereafter, a person issued a license under ORS 807.363 must be examined by a licensed vision specialist and submit a Report of Limited Vision Examination form showing the person meets the vision requirements under ORS 807.359. If the person's driving privileges are not restricted to daylight driving only, the Report of Limited Vision Examination form must include the nighttime driving vision specialist certification.

(2) Approximately 90 days before it is due, DMV will send the person a requirement letter and Report of Limited Vision Examination form. The Report of Limited Vision Examination form must be completed by the person's licensed vision specialist and returned to DMV no later than the return date on the requirement letter.

(3) DMV will cancel the person's driving privileges if the Report of Limited Vision Examination form is not completed and returned to DMV by the return date set forth in the requirement letter described in section (2) of this rule or the person fails to meet the vision requirements as set forth in section (1) of this rule.

(4) If the person's driving privileges are not restricted to daylight driving only, DMV will issue a driver license with a daylight driving only restriction if the Report of Limited Vision Examination report submitted pursuant to section (1)(a) of this rule does not include the nighttime driving vision specialist certification.

(5) A Report of Limited Vision Examination must be received by DMV no later than two years from the date the most recently submitted report was signed by the licensed vision specialist.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.363 & 809.310(1)
Hist.: DMV 20-2009, f. & cert. ef. 10-27-09; DMV 18-2013, f. 12-20-13, cert. ef. 1-1-14

735-062-0390
Driving Privileges without a Daylight Hours Restriction for Persons with a Limited Vision Condition

(1) When an applicant meets the requirements in OAR 735-062-0320 for a special limited vision condition learner's permit, DMV will issue the special limited vision condition learner's permit without a driving during daylight hours only restriction, if the applicant also submits:

(a) A report from a licensed vision specialist certifying that the person's vision condition will allow the person to safely operate a motor vehicle at night; and

(b) Proof of enrollment in a nighttime driving training program as described in OAR 735-062-0330(6).

(2) To participate in behind-the-wheel nighttime driving training, a person with a special limited vision condition learner's permit, an instruction permit or a driver license that has a driving during daylight hours only restriction must provide DMV with the name of the rehabilitation specialist and date(s) of the nighttime training, and a report from a licensed vision specialist certifying that the person's vision condition will allow the person to safely operate a motor vehicle at night. If the person qualifies, DMV will send a modified restriction letter to the rehabilitation training specialist to allow the person to drive during nighttime training.

(3) DMV may issue an instruction permit or regular driver license without a driving during daylight hours only restriction to a person with a limited vision condition, or may remove the restriction from the person's driving privileges if the person submits to DMV:

(a) A report from a licensed vision specialist certifying that the person's vision condition will allow the person to safely operate a motor vehicle at night. If this report also certifies that the person's vision meets the vision requirements under section 3, chapter 277, Oregon Laws 2003, no other vision report will be required for two years; and

(b) A certificate issued by a rehabilitation training specialist certifying that the person has completed a nighttime driving

training program as described in OAR 735-062-0330(6) and can safely operate a motor vehicle at night.

(4) If DMV has issued an instruction permit without a daylight only restriction to a person who later qualifies for a driver license, that license will be issued without a daylight only restriction as well.

Stat. Auth.: ORS 184.616, 184.619, 802.010; Sec. 5, Ch. 277. OL 2003, Ch. 588, OL 2007
Stat. Implemented: Ch. 277, OL 2003, Ch. 588, OL 2007
Hist.: DMV 18-2007, f. 12-24-07, cert. ef. 1-1-08

DIVISION 63

COMMERCIAL DRIVING PRIVILEGE PROVISIONS

735-063-0000 [Renumbered to **735-063-0205**]

735-063-0050 [Renumbered to **735-063-0210**]

735-063-0060 [Renumbered to **735-063-0220**]

735-063-0065 [Renumbered to **735-063-0230**]

735-063-0067 [Renumbered to **735-063-0340**]

735-063-0070 [Renumbered to **735-063-0240**]

735-063-0075 [Renumbered to **735-063-0350**]

735-063-0130 [Renumbered to **735-063-0360**]

735-063-0180 [Renumbered to **735-063-0380**]

735-063-0200
Purpose

(1) Chapter 735, division 063 establishes rules for those requirements and processes that are specific to the granting of commercial driving privileges, the retention of those privileges and DMV's sanctioning of those privileges. A person applying for commercial driving privileges must already have a Class C non-commercial license issued by the State of Oregon, or must meet all qualifications for the license. The administrative rules in OAR 735, division 062 regarding the procedures related to the issuance, renewal or replacement of a Class C non-commercial driver license or driver permit also apply to a CDL or a CLP except as specified in these rules.

(2) The following rules in OAR 735, division 062 do not apply to a CDL or a CLP:

(a) 735-062-0002;
(b) 735-062-0005;
(c) 735-062-0010;
(d) 735-062-0032;
(e) 735-062-0033;
(f) 735-062-0035;
(g) 735-062-0080;
(h) 735-062-0085; and
(i) 735-062-300 to 735-062-0390.

(3) The other rules in OAR 735, division 062 are applicable to commercial driving privileges either in whole or as specified in the rules below.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.018, 807.031, 807.035, 807.045, 807.120, 807.173, 807.285, 809.510-809.545
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0205
Definitions

Except as otherwise provided in these OAR 735, division 063, rules the following definitions apply to OAR 735, division 063:

(1) "AAMVA" means the American Association of Motor Vehicle Administrators.

(2) "Accident records" include, but are not limited to DMV records, police reports, crash reports or other reports from motor carriers.

(3) "CDL" means commercial driver license.

(4) "CDLIS" means the Commercial Driver's License Information System operated by AAMVA for FMCSA.

(5) "CDL Third Party Examiner" means an individual certified by DMV to administer CDL skills tests through a CDL Third Party Tester.

(6) "CDL skills test" means a three-part test to determine a CDL applicant's driver competency, consisting of: a pre-trip vehicle inspection, a basic control skills test and an on-road drive test.

(7) "CDL Third Party Tester" means a person authorized by DMV to operate a CDL skills testing program and provide CDL Third Party Examiner(s) to administer CDL skills test.

(8) "CLP" means a commercial learner driver permit issued under ORS 807.285 on or after September 26, 2016, or a commercial instruction permit issued under ORS 807.280 prior to September 26, 2016.

(9) "CMV" means commercial motor vehicle, as defined in ORS 801.208.

(10) "Conviction record" means an official record showing a determination of guilt by a court of law upon a plea, verdict, finding, or unvacated bail forfeiture.

(11) "CSTIMS", means the Commercial Skills Test Information Management System, a web-based system for scheduling and reporting CDL skills tests information and results.

(12) "Disqualifying condition" is a medical condition(s) not meeting FMCSA physical qualification standards as set forth in 49 CFR 391.41(b).

(13) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(14) "Driving type" means a certification by an applicant or holder of a CDL or CLP for one of the following:

(a) Non-excepted interstate: the person operates or expects to operate in interstate commerce;

(b) Excepted interstate: the person operates or expects to operate in interstate commerce but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3; or

(c) Non-excepted intrastate: the person operates only in intrastate commerce.

(15) "Fifth wheel hitch" means the coupling system, as defined in ORS 801.275.

(16) "FMCSA" means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

(17) "Intrastate commerce" has the meaning set forth in 49 CFR 390.5 and includes any trade, traffic or transportation taking place exclusively within Oregon.

(18) "Medical Determination Officer" means a physician, nurse practitioner or physician assistant, licensed to provide health care services by the State of Oregon, and is employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.

(19) "Medical Specialist" means a person who is licensed as a doctor of medicine, a doctor of osteopathy, an optometrist or an audiologist.

(20) "Physician" has the meaning set forth in ORS 807.710.

(21) "SPE certificate" means a Skill Performance Evaluation certificate issued by FMCSA pursuant to 49 CFR 391.49 to a person who demonstrates the ability to safely operate a CMV in spite of limb impairment or loss.

(22) "Waiver of Physical Disqualification" or "waiver" means a waiver issued by DMV to a driver who does not meet certain physical qualifications required for drivers of CMVs as set forth in 49 CFR 391.41(b).

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.040 & 807.100
Hist.: DMV 4-2009, f. & cert. ef. 2-20-09; DMV 8-2010, f. & cert. ef. 3-17-10; DMV 7-2011, f. & cert. ef. 6-21-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; Renumbered from 735-063-0000, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0210
CDL or CLP Medical Standards

(1) DMV adopts 49 CFR 391.41 to 391.49 in effect as of September 26, 2016 pertaining to physical qualifications and medical examination of drivers of CMVs.

(2) Any person who certifies a driving type of non-excepted interstate must meet the medical qualifications described in 49 CFR 391.41 to 391.49 or be exempted from those medical qualifications pursuant to 49 USC 31135 and 31136(e) and 49 CFR 381.300 to 381.330 to be issued or to retain an Oregon CDL or CLP.

(3) Any person who certifies a driving type of excepted interstate or non-excepted intrastate must:

(a) Meet the medical qualifications in section (2) of this rule to be issued or retain an Oregon CDL or CLP; or

(b) Meet the medical qualifications for a Waiver of Physical Disqualification issued by DMV and described in 735-063-0070 to be issued or retain a restricted Oregon CDL or CLP.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040 & 809.419
Other Auth.: 49 CFR §391.41 – §391.49
Stats. Implemented: ORS 807.040, 807.100 & 809.419
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0730; MV 24-1988, f. & cert. ef. 7-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 11-1992, f. & cert. ef. 9-28-92; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0140; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0260, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09; DMV 8-2010, f. & cert. ef. 3-17-10; DMV 7-2011, f. & cert. ef. 6-21-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; Renumbered from 735-063-0050, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0220
Proof of Medical Qualification for a CDL or CLP

(1) Proof of medical qualification for a person who certifies a driving type of non-excepted interstate is:

(a) A CDLIS record that indicates the person is medically qualified to operate a CMV in interstate commerce; or

(b) A valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.43. When indicated on the certificate, the Medical Examiner's Certificate must be accompanied by one or both of the following:

(A) A valid unexpired notice of exemption issued by FMCSA under the provisions of 49 CFR 381.300 to 381.330.

(B) A valid unexpired SPE certificate issued by FMCSA under the provisions of 49 CFR 391.49.

(2) Proof of medical qualification for a person who certifies a driving type of excepted interstate or non-excepted intrastate is:

(a) The proof required under section (1) of this rule; or

(b) A valid unexpired Waiver of Physical Disqualification issued by DMV under the conditions described in OAR 735-063-0240.

(3) A Medical Examiner Certificate, notice of exemption, SPE certificate and a Waiver of Physical Disqualification is valid for up to two years.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040
Other Auth.: 49 CFR §381.300 - §381.330 and §391.41 – §391.49
Stats. Implemented: ORS 807.040, 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 4-1987, f. & ef. 5-18-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0750; MV 24-1988, f. & cert. ef. 7-1-88; MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0160; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0280, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09; DMV 8-2010, f. & cert. ef. 3-17-10; DMV 7-2011, f. & cert. ef. 6-21-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; Renumbered from 735-063-0060, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0230
Medical Qualification Procedures for CDL or CLP

(1) An applicant for a CDL or CLP must have proof of medical qualification as described in OAR 735-063-0220. DMV will not issue a CDL or CLP if any proof of medical qualification is denied, expired, rescinded, voided or revoked.

(2) An applicant for a CDL or CLP who certifies a driving type of non-excepted interstate must also certify on the application or renewal form that the applicant meets the driver qualification requirements contained in 49 CFR part 391.

(3) To maintain proof of medical qualification to operate a CMV, the holder of a CDL or CLP must have a valid Medical Examiner's Certificate. Proof of medical qualification must be provided to DMV when requested. If proof is not provided as required following the expiration of the holder's current proof of medical qualification as described in OAR 735-063-0220, DMV will cancel the holder's commercial driving privileges as provided in OAR 735-063-0340.

(4) DMV is not responsible for any expenses an applicant may incur for the acquisition of a valid Medical Examiner's Certificate or duplicate Medical Examiner's Certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.040
Stats. Implemented: ORS 807.040, 807.100 & 807.150
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0760; MV 4-1987, f. & ef. 5-18-87; MV 6-1990, f. & cert. ef. 4-2-90; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0170; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0290, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09; DMV 7-2011, f. & cert. ef. 6-21-11; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 12-2012, f. & cert. ef. 9-20-12; Renumbered from 735-063-0065, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0240
Waiver of Physical Disqualification

(1) This rule is applicable to holders of or applicants for a CDL, CLP or Class C non-commercial license issued by DMV, who intend to operate a CMV only in Oregon intrastate commerce or are exempt from the physical qualification requirements in 49 CFR 391.41 and 391.43 under 49 CFR 390.3(f), 391.2, 391.68 or 398.3 but must have a medical certificate under ORS 807.100.

(2) For purposes of this rule, CMV means a commercial motor vehicle as defined in 49 CFR 390.5 and includes a driver employed or applying for employment to operate a CMV by a for-hire carrier as defined in ORS 825.005.

(3) DMV may issue or renew a Waiver of Physical Disqualification if the person is otherwise disqualified from operating a CMV under 49 CFR 391.41(b) because of one or more of the following disqualifying conditions:

(a) Loss or impairment of limb;

(b) Diabetes;

(c) Seizure disorder;

(d) Impaired vision; or

(e) Hearing loss.

(4) Except as provided in Sections (2) and (12) of this rule, DMV will not issue or renew a Waiver of Physical Disqualification to a person who does not meet the physical qualification standards set forth in 49 CFR 391.41(b).

(5) To apply for a Waiver of Physical Disqualification, an applicant must submit the following:

(a) A completed waiver application form, including:

(A) A current FMCSA medical examination report completed by a licensed physician, chiropractic physician, physician assistant or nurse practitioner. The report must show that notwithstanding the disqualifying condition, the applicant meets all other physical qualification standards as set forth in 49 CFR 391.41(b);

(B) Current medical information regarding the disqualifying condition from a treating medical specialist specializing in the assessment and treatment of the type of disqualifying condition for which the applicant is requesting a waiver; and

(C) If requested by DMV, a copy of the applicant's out-of-state driver record if the applicant has held a driver license in another jurisdiction during the three-year period preceding the date of application.

(b) If requested by DMV, additional information showing that the disqualifying condition does not impair the person's ability to safely operate a CMV in intrastate commerce.

(6) The Medical Determination Officer will review an application for an original waiver or for renewal of a waiver and make a recommendation to DMV whether to approve or deny the waiver.

(a) The Medical Determination Officer review will be conducted using medical waiver guidelines. These guidelines are criteria maintained by the Medical Determination Officer and are available from DMV.

(b) The Medical Determination Officer may request additional information from DMV or the applicant before making a recommendation.

(7) Records relating to an applicant or the holder of a current waiver may be reviewed at any time by DMV to determine if the person is qualified to hold the waiver and is complying with the restrictions and conditions of the waiver. The review may include a recommendation from the Medical Determination Officer. DMV may use the information from these records or a recommendation from the Medical Determination Officer as a basis for denial of a waiver or for revocation of an existing waiver as specified in OAR 735-063-0350(4). Records include but are not limited to:

(a) Driving record;

(b) Accident record;

(c) Conviction record; and

(d) Medical records.

(7) If DMV has reason to believe the holder of a Waiver of Physical Disqualification is no longer qualified for the waiver, DMV:

(a) May immediately revoke the waiver as specified in OAR 735-063-0350;

(b) May request in writing that the holder submit any information requested by DMV in order for DMV to determine if the holder remains eligible for the waiver. The holder must submit any requested information to DMV within 60 days of the date the written request is mailed. Failure to submit the requested information will result in revocation of the waiver as set forth in OAR 735-063-0350(3). DMV may grant an additional 30 days if:

(A) The person is seriously ill or injured and DMV receives a written request from a physician for an extension;

(B) The person is temporarily out of state and DMV receives a written request for an extension from the person; or

(C) The person can show that the information was requested from another party within the 60 day period and the delay in submitting the information was caused by the other party.

(8) To be eligible for a Waiver of Physical Disqualification, a driver must:

(a) Qualify for commercial driving privileges, have a valid Oregon CDL or CLP, or be an Oregon licensed driver employed by or seeking employment with a carrier to operate a CMV only in Oregon intrastate commerce;

(b) Have driving privileges that are not suspended, revoked, cancelled or withdrawn in Oregon or any other jurisdiction;

(c) Have a Waiver of Physical Disqualification that is not currently denied or revoked as specified in OAR 735-063-0350(1) or 735-063-0350 (4);

(d) Apply for the Waiver of Physical Disqualification as explained in section (4) of this rule; and

(e) Receive a recommendation for waiver approval from the Medical Determination Officer.

(9) Any driver issued a waiver must comply with the following conditions:

(a) Notify DMV within 10 days of any change in the driver's physical condition or any other condition pertaining to the need for the waiver, modification of the waiver or revocation of the waiver;

(b) Notify DMV of any crash, arrest or conviction involving the use of a motor vehicle within 30 days of the crash or within 10 days of the arrest or conviction;

(c) Notify DMV within 10 days of any suspension, cancellation, revocation or withdrawal of driving privileges in a jurisdiction other than Oregon;

(d) Notify DMV within 10 days of changing employers and provide the new employer with a copy of the waiver;

(e) Carry a copy of the medical waiver and any listed waiver conditions at all times while operating a CMV and make the waiver and waiver conditions available to enforcement personnel upon request;

(f) Operate a CMV only in Oregon intrastate commerce. This subsection does not apply to a driver who is exempt from the physical qualification requirements in 49 CFR 391.41 and 391.43 under 49 CFR 390.3(f), 391.2, 391.68 or 398.3, but must have an approved medical certificate under ORS 807.100; and

(g) Comply with all waiver conditions related to the disqualifying condition as noted on the Waiver of Physical Disqualification.

(10) The waiver is valid for a period not to exceed the expiration date of the driver's medical certificate.

(11) Incomplete waiver applications are invalid 180 days after receipt by DMV and DMV will take no action to deny or approve the application. After this period, the person must reapply for a waiver in accordance with all of the requirements of this rule.

(12) DMV will renew a Waiver of Physical Disqualification issued for a sleep disorder or cardiac condition if the waiver was in effect on August 10, 2009, and all other requirements set forth in section (8) of this rule are met.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.040 & 807.150
Hist.: MCTB 4-2000, f. & cert. ef. 6-12-00; Renumbered from 740-100-0140, DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 740-100-0140, DMV 9-2008, f. & cert. ef. 3-21-08; DMV 4-2009, f. & cert. ef. 2-20-09; DMV 8-2010, f. & cert. ef. 3-17-10; DMV 7-2011, f. & cert. ef. 6-21-11; DMV 12-2012, f. & cert. ef. 9-20-12; Renumbered from 735-063-0070, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0250
Knowledge Testing and Requirements for Issuance of CLP

(1) An applicant for commercial driving privileges must first apply for a CLP, except as specified in OAR 735-063-0260(1).

(2) The class of CLP that DMV will issue, and the endorsements and restrictions that DMV will place on the CLP are dependent on the knowledge tests that the applicant takes and passes, or on the current CDL that the person possesses.

(3) The provisions of OAR 735-062-0040 also apply to the knowledge tests given to an applicant for a CLP.

(4) For purposes of the issuance of a CLP, a passing score for a knowledge test taken on or after September 26, 2016 is valid for six months. A passing score for a knowledge test taken prior to September 26, 2016 is valid for two years.

(5) All applicants for a CLP must have a valid score for the CDL general knowledge test. Additional knowledge test(s) are as follows:

(a) An applicant for a Class A CLP must have a valid score for the combination vehicles knowledge test.

(b) An applicant for a CLP with a passenger endorsement must have a valid score for the passenger endorsement test.

(c) An applicant for a CLP with a school bus endorsement must have a valid score for the passenger endorsement knowledge test and for the school bus endorsement test.

(d) An applicant for a CLP with a tank endorsement must have a valid score for the tank endorsement knowledge test.

(e) An applicant for a CLP who wants to operate a CMV with air brakes must have a passing score for the air brake knowledge test.

(6) All knowledge tests are administered in English. DMV does not allow the use of an interpreter or language aid.

(7) In addition to all requirements of OAR 735-062-0007(1) listed in subsections (e) through (1), an applicant for a CLP must:

(a) Provide the applicant's Social Security number on the application. DMV will verify the Social Security number as described in OAR 735-062-0005;

(b) Except as provided in section (8) of this rule, provide proof of U.S. citizenship as described in OAR 735-062-0015(2) or permanent legal residency in the U.S. as described in OAR 735-062-0015(3).

(c) Certify driving type;

(d) Provide proof of medical qualification as described in OAR 735-063-0220; and

(e) Satisfy all requirements set forth in ORS 807.285.

(8) A citizen of a nation with a Compact of Free Association (COFA) with the United States must provide the proof required in OAR 735-062-0015(4)(a). For purposes of this rule, a citizen of a

COFA nation is considered to have met lawful permanent resident requirements, under authority of FMCSA guidance, as required under ORS 807.040 and 807.285 for, issuance of a CLP.

(9) An applicant for a CLP is also subject to the provisions of OAR 735-062-0007(2)—(9).

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.018, 807.031, 807.035, 807.070, 807.285
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0260
CDL Testing and Requirements for Issuance of CDL

(1) An applicant for a CDL must first be issued a CLP and pass a CDL skills test unless the applicant qualifies for one of the following exceptions:

(a) The applicant currently holds an Oregon CDL and is applying to renew or replace a CDL granting the exact same privileges.

(b) The applicant currently holds an Oregon CDL, is qualified for and has passed the knowledge test to add one or more of the following endorsements:

(A) Tank;

(B) Hazardous Materials;

(C) Doubles/Triples.

(c) The applicant surrenders a valid CDL issued by another state or the District of Columbia and the applicant:

(A) Meets the qualifications set forth in OAR 735-062-0080 subsections (1)(a) — (e);

(B) Surrenders a CDL that is the same class as the CDL for which the application is made;

(C) Passes the knowledge test for an Oregon Class C non-commercial license as the base driver license;

(D) Passes the vision screening; and

(E) Complies with OAR 735-063-0250 (7)(a) — (d).

(d) The applicant meets the requirements of OAR 735-063-0280 to be issued an Oregon CDL based on the applicant's military training and experience operating CMVs.

(2) For a DMV examiner or CDL Third Party Examiner to administer a CDL skills test to an applicant, the applicant must:

(a) Have an unexpired Oregon driver license and an unexpired Oregon CLP. DMV must have issued the unexpired CLP not less than 14 days prior to the test. The applicant's driving privileges must not be suspended, revoked, cancelled or otherwise withdrawn;

(b) Be ready to take the test in a class of vehicle or combination of vehicles that corresponds to or is lesser than the CLP, class, endorsements, and restrictions, possessed by the applicant and that corresponds to the CDL for which the person is applying.

(c) Have proof of insurance coverage on the vehicle as required by Oregon law;

(d) Complete all portions of the CDL skills test on the same calendar day unless the applicant fails or is unable to complete all three parts of the CDL skills test during a previous attempt.

(e) Communicate with the examiner in English. All examiner instructions are given in English and the applicant must respond in English.

(3) DMV adopts the following FMSCA regulations in effect as of September 26, 2016, as the standards that must be followed by an examiner in the administration of a CDL skills test:

(a) 49 CFR 383.71, Driver Applicant and Certification Procedures;

(b) 49 CFR 383.110 through 383.123, Required Knowledge and Skills; and

(c) 49 CFR 383.131 through 383.135, Tests.

(4) The CDL skills test must be administered in accordance with the federal regulations adopted by section (4) of this rule and the methods and procedures set forth in the Oregon CDL Examiner's Manual. The CDL skills test must include:

(a) A pre-trip vehicle inspection test. This part of the CDL skills test must be the first test administered by the examiner. It is designed to evaluate the applicant's ability to identify and operate the equipment on the vehicle in which the applicant is being tested and to detect and identify unsafe vehicle equipment items as described in the Oregon Commercial Driver Manual.

(b) A basic control skills test. This part of the CDL skills test must be administered after the applicant has successfully completed the pre-trip vehicle inspection test and prior to the on-road drive test. It is designed to evaluate the applicant's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing and parking maneuvers.

(c) An on-road drive test. This part of the CDL skills test, which must be administered after successful completion of the basic control skills test, is designed to evaluate the applicant's competency to safely operate a vehicle or combination of vehicles under actual driving conditions. The applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:

(A) The vehicle or combination of vehicles used for the CDL skills test must be of the class for which the applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. DMV will not administer the test if the examiner concludes the vehicle cannot be operated safely and legally; and

(B) The vehicle or combination of vehicles must not be loaded.

(5) If the applicant fails the first CDL skills test, DMV or a CDL Third Party Tester may administer additional tests as needed, with the following frequency:

(a) A second test may be administered no sooner than seven days after the first test;

(b) A third test may be administered no sooner than 14 days after the second test;

(c) A fourth test may be administered no sooner than 28 days after the third test; and

(d) A fifth test may be administered no sooner than 28 days after the fourth test.

(6) If an applicant passed the pre-trip vehicle inspection test but failed any other part of the CDL skills test, DMV or an approved CDL Third Party Tester may consider the pre-trip vehicle inspection test score valid and administer a subsequent CDL skills test starting with the basic skills control test.

(7) All CDL skills test results must be recorded in CSTIMS.

(8) A passing score for a CDL skills test taken on or after September 26, 2016, is valid for six months. A passing score for a CDL skills test taken prior to September 26, 2016, is valid for two years.

(9) If a CDL skills test administered by DMV is not completed because of vehicle equipment failure due to the vehicle not having the necessary safety equipment or not being in proper working order, the required test fee will remain on the DMV customer record to serve as payment for a postponed test. If an applicant must postpone a CDL skills test three times due to equipment failure, it is a test failure and the test fee is forfeited. DMV will require an additional test fee for subsequent tests.

(10) An applicant for a CDL with a hazardous materials endorsement must meet the requirements described in OAR 735-063-0290.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Other Auth.: 49 CFR §383.71, §383.110 – 383.123 & §383.131-383.135
Stats. Implemented: ORS 807.018, 807.031, 807.035, 807.045, 807.173, 807.285
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0270
Acceptance of Tests Conducted Out-of-State

When an applicant has received training in the operation of CMVs in another state and has taken and passed the CDL skills test in that state, DMV will accept the certification of a driver's competency as evidenced by the entry of passing test scores in CSTIMS, as provided in 49 CFR 383.79. The ability of a CDL Third Party Examiner to access CSTIMS demonstrates that the Examiner has been approved to administer CDL skills tests by the driver licensing agency in that state.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.070, 807.072, 807.080
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0280
Military Skills Waiver

DMV may waive the CDL skills test for an applicant for a Class A or B CDL if the applicant has military experience driving a Class A or B CMV and meets the following requirements:

(1) The applicant holds or is eligible for an Oregon Class C driver license;

(2) The applicant submits a completed Application for Military Skills Waiver, including the Commanding Officer's certification of commercial driving experience, showing the applicant meets the conditions for a waiver of skills testing set forth in 49 CFR 383.77; and

(3) DMV determines, based on documentary evidence submitted by the applicant or any military department or agency of the United States Department of Defense that:

(a) The class of CMV operated by the applicant in the military is equivalent to the class of CDL for which the applicant is applying; and

(b) The applicant's primary duty while serving in the military was operation of a CMV and included operation of a CMV on public roadways.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.070, 807.072
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0290
Requirements for Issuance and Retention of a Hazardous Materials Endorsement

(1) To obtain, retain or renew a CDL with a hazardous materials endorsement, a person must be qualified. To qualify for a hazardous materials endorsement a person must:

(a) Qualify for commercial driving privileges or have a valid Oregon CDL.

(b) Pass a hazardous materials endorsement knowledge test for an original endorsement or a renewal.

(c) Pass a security threat assessment (security check) from the Transportation Security Administration (TSA) in accordance with 49 CFR Part 1572, including receipt by DMV of a notice from TSA showing the person does not pose a security threat. A person must pass a TSA security check:

(A) Within four years and nine months prior to the date DMV issues an original hazardous materials endorsement;

(B) At intervals of not more than five years from the date of the person's most recent TSA security check; and

(C) Any other time required by DMV.

(d) Pay all required fees, which include, but may not be limited to, any applicable issuance fee and hazardous materials knowledge test fee.

(2) A person is no longer qualified for a hazardous materials endorsement if:

(a) DMV receives a notice of threat assessment from TSA requiring cancellation of the hazardous materials endorsement;

(b) DMV receives notice from TSA indicating the person did not pass the security threat assessment; or

(c) The person fails to complete and pass a TSA security check as described in section (1) of this rule.

(3) If DMV determines a person is no longer qualified for a hazardous materials endorsement under this rule, DMV will cancel the person's commercial driving privileges. Upon cancellation the person must immediately surrender to DMV the CDL showing the hazardous materials endorsement. If the person otherwise qualifies and pays a replacement fee, DMV will issue a CDL without a hazardous materials endorsement or a class C non-commercial driver license.

(4) The person may request an administrative review of the cancellation of the person's CDL. The issues for the administrative review are limited to whether:

(a) When required, the person completed and passed a TSA security check as described in section (1) of this rule.

(b) DMV received a notice from TSA showing the person does not qualify for a hazardous materials endorsement.

(c) The person is the same person named on the notice.

(5) An applicant for an Oregon CDL with a hazardous materials endorsement who presents a valid CDL with a hazardous materials endorsement issued by another state must still qualify for an original hazardous materials endorsement as set forth in section (1) of this rule.

(6) If the person passes a TSA security check within one year from the date the person's CDL with a hazardous materials endorsement was canceled under section (2) of this rule and otherwise qualifies for the CDL and endorsement, DMV will reissue the CDL with a hazardous materials endorsement after payment of a replacement fee. If the cancellation has been in effect for more than one year, the person must reapply for the hazardous materials endorsement as an original endorsement and must take all required tests, pay all required fees and pass the required TSA security check.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.173
Other Auth.: 49 USC sec. 5103a
Stats. Implemented: ORS 807.170, 807.173, 807.350, 809.310
Hist.: DMV 3-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 13-2005, f. 5-19-05, cert. ef. 5-31-05; DMV 18-2005(Temp), f. & cert. ef. 8-18-05 thru 2-13-06; DMV 26-2005, f. & cert. ef. 12-14-05; DMV 7-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 1-27-07; DMV 8-2006, f. & cert. ef. 8-25-06; DMV 24-2009, f. 12-22-09, cert. ef. 1-1-10; Renumbered from 735-062-0190, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0300
Restrictions on CDL or CLP

DMV will impose specific restrictions of driving privileges that will appear on a driver's record and on a CDL or a CLP as follows:

(1) L — No CMV with air brake. This restriction prohibits the driver from operating a CMV equipped with brakes that operate solely or partially by air pressure. DMV will place this restriction on a CDL or CLP if an applicant has not passed or fails the air brake knowledge test or takes the CDL skills test in a vehicle not equipped with air brakes.

(2) Z — No full air brake CMV. This restriction prohibits the driver from operating a CMV equipped with brakes that operate solely by air pressure. DMV will place this restriction on a CDL if the applicant takes the skills test in a vehicle equipped with air over hydraulic brakes.

(3) E — Automatic transmission CMV. This restriction prohibits the driver from operating a CMV that is equipped with a manual transmission. DMV will place this restriction on a CDL if the applicant takes the skills test in a vehicle equipped with an automatic transmission.

(4) O — No tractor trailer. This restriction prohibits the driver from operating a CMV in combination with any other vehicle using a fifth wheel hitch between the power unit and the first towed unit. DMV will place this restriction on a CDL if the applicant takes the skills test in a combination vehicle for a Class A CDL with the power unit and towed unit connected with a pintle hook or other non-fifth wheel connection.

(5) K — CMV intrastate only. This restriction prohibits the driver from operating a CMV for purposes of interstate commerce. DMV will place this restriction on a CDL or CLP if the driver is between 18 and 21 years of age, if the person fails to meet the medical qualification needed to operate interstate but has been issued an Oregon Waiver of Physical Disqualification, or if the person certifies to a driving type of non-excepted intrastate.

(6) M — No A passenger CMV. This restriction prohibits the driver from operating a passenger vehicle requiring a Class A CDL. DMV will place this restriction on a CLP if the applicant has a Class B CLP with a passenger endorsement. DMV will place this restriction on a Class A or B CDL if an applicant takes the skills test in a Class B passenger vehicle.

(7) N — No A or B passenger CMV. This restriction prohibits the driver from operating a passenger vehicle requiring a Class A or Class B CDL. DMV will place this restriction on a CLP if the applicant has a Class C CLP with a passenger endorsement. DMV

will place this restriction on any CDL if an applicant takes the skills test in a Class C passenger vehicle.

(8) V — Federal medical variance. DMV will place this restriction on a CDL or CLP if the applicant has a notice of exemption or SPE certificate issued by FMSCA as described in OAR 735-063-0060(1).

(9) P — No passenger in CMV bus. This restriction prohibits the driver from operating a CMV carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees and the CDL holder accompanying the CLP holder. DMV will place this restriction on a CLP when the CLP has a passenger endorsement.

(10) X — No cargo in tank CMV. This restriction prohibits the driver from operating a tank vehicle with cargo. DMV will place this restriction on a CLP when the CLP has a tank endorsement.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120
Stats. Implemented: ORS 807.120
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0310
Transfer of Driver Records from Other Jurisdictions

When the driving record from another jurisdiction becomes part of a person's Oregon driving record under ORS 802.200(9)(e) any convictions from the other jurisdiction's driving record will be transferred to the person's Oregon driving record using the AAMVAnet Code Dictionary (ACD) code.

Stat. Auth.: ORS 184.616, 184.619, 802.200, 802.210, 802.540, 807.040, 807.045, 807.050, 807.060, 807.070, 807.150, 807.170 & 809.310
Stats. Implemented: ORS 802.200
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0017; Renumbered from 735-062-0210, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0320
Report of Positive Drug Test Result from Medical Review Officer

(1) A report submitted by a medical review officer under ORS 825.410 or 825.415 must include a Report of Positive Drug Test Under ORS 825.410 or 825.415 (DMV form 735-7200) and:

(a) A legible copy of a completed Federal Custody and Control Form, Copy 2 — Medical Review Officer Copy; or

(b) Either an original or legible copy of a document that contains, at a minimum, the following information:

(A) Full name of the person tested;

(B) Specimen ID number;

(C) Place of Specimen Collection;

(D) Date of Specimen Collection;

(E) Collector's name;

(F) Whether a split specimen was collected;

(G) The signature of the person tested, certifying that: he or she provided an unadulterated specimen to the collector; the specimen bottle was sealed with a tamper evident seal in the person's presence; and the information on the label affixed to the specimen bottle was correct;

(H) The date the medical review officer verified the test result; and

(I) Signature of the medical review officer.

(2) DMV will send notice as required by ORS 825.412 or 825.418 when a report as described in section (1) of this rule is received by the agency.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 825.410, 825.412, 825.415 & 825.418
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-070-0185; Renumbered from 735-062-0185, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0330
Hearing Request for Entry of Positive Drug Test Result on Employment Driving Record

(1) When DMV receives a report described in OAR 735-063-0320, DMV will notify the person who is the subject of the report that the person has a right to request a hearing to determine whether a positive drug test result will be placed on the person's employment driving record.

(2) A hearing request must be in writing and must include:

(a) The person's full name;

(b) The person's complete mailing address;

(c) The person's Oregon driver license number; and

(d) A brief statement of the issues the person proposes to raise at the hearing. The issues are limited to those set forth in ORS 825.412(3) or 825.418(3).

(3) The hearing request must be postmarked within 30 days of the date of the notice. If the hearing request is not postmarked or a postmark date cannot be determined, it must be received by DMV within 30 days of the date of the notice. The time period for requesting a hearing is computed as set forth in OAR 137-003-0520(11).

(4) A person may submit a hearing request by mail or personal delivery to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314. If the person submits a hearing request by facsimile machine (FAX), it must be received by DMV at FAX number (503) 945-5521. A person may submit a hearing request through the form available on www.OregonDMV.com.

(5) A hearing request may also include:

(a) The person's date of birth;

(b) The telephone number where the person can be reached between 8 a.m. and 5 p.m.; and

(c) The dates and times the person or the person's attorney cannot appear at a hearing.

(6) Except for good cause shown any factual or legal defense not set forth in the hearing request is considered waived. No evidence offered by a person who requests a hearing will be admitted into the hearing record on any factual or legal defense that is waived.

(7) If good cause is shown under section (6) of this rule, the administrative law judge must provide DMV sufficient opportunity to obtain and present any evidence in the contested case hearing deemed necessary by DMV to respond to evidence offered by the person on any factual or legal defense.

(8) Except as provided in OAR 137-003-0528, the person's right to a hearing is waived if a hearing is not requested within the time period specified in section (3) of this rule and the notice becomes the final order by default. The test results will be posted to the person's employment driving record.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 825.410, 825.412, 824.415 & 825. 418
DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0017; Renumbered from 735-070-0190, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0340
Cancellation or Suspension of Commercial Driving Privileges Due to No Valid Proof of Medical Qualification or Failure to Have Restriction on the CDL or CLP when Required

(1) DMV will cancel a person's commercial driving privileges if any proof of medical qualification, as described in OAR 735-063-0220, is denied, expired, rescinded, voided or revoked.

(2) DMV will cancel a person's commercial driving privileges if proof of medical qualification, as described in OAR 735-063-0220, is not submitted when requested by DMV. Such requests will be made only when DMV does not already have proof of medical qualification.

(3) When a person's commercial driving privileges have been cancelled under section (1) or (2) of this rule, DMV will restore the person's commercial driving privileges if the person submits proof of medical qualification as described in OAR 735-063-0220.

(4) Failure of a person to obtain the "V" restriction as required by OAR 735-063-0300(8) within the time period specified by DMV will result in cancellation of the person's commercial driving privileges in accordance with ORS 807.010(1) and 809.310(1).

(5) Failure of a person to obtain the "K" restriction as required by OAR 735-063-0300(5) within the time period specified by DMV will result in cancellation of the person's commercial driving privileges in accordance with ORS 807.010(1) and 809.310(1).

(5) DMV will suspend, for one year, a person's commercial driving privileges and the person's right to apply for commercial driving privileges if DMV determines that the person submitted

false information to DMV for the purpose of establishing or maintaining qualification to operate a CMV; or hold a CDL or a CLP.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040, 807.100, 809.415
Stats. Implemented: ORS 807.040, 807.100, 809.415
Hist.: DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 12-2012, f. & cert. ef. 9-20-12; Renumbered from 735-063-0067, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0350
Denial or Revocation of an Oregon Waiver of Physical Disqualification

(1) A holder of a Waiver of Physical Disqualification who violates any of the requirements set forth in OAR 735-063-0240(9), in addition to any other actions authorized by law, will be subject to revocation of the waiver for up to 180 days upon DMV's determination of the driver's second violation of waiver conditions within the preceding 12 months.

(2) DMV will deny or revoke a Waiver of Physical Disqualification if DMV determines that the applicant or waiver holder does not qualify for the waiver under the requirements set forth in OAR 735-063-0240(8).

(3) DMV will deny or revoke a Waiver of Physical Disqualification if the waiver holder fails to provide information requested under 735-063-0240(7) within the required 60 day time period.

(4) DMV will deny or revoke a Waiver of Physical Disqualification if, as a result of a review conducted under 735-063-0240(6), DMV determines the person no longer qualifies for the waiver.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.040, 807.150
Hist.: MCTB 4-2000, f. & cert. ef. 6-12-00; MCTB 4-2001, f. & cert. ef. 11-9-01; Renumbered from 740-300-0140, DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 740-300-0140, DMV 9-2008, f. & cert. ef. 3-21-08; DMV 4-2009, f. & cert. ef. 2-20-09; DMV 8-2010, f. & cert. ef. 3-17-10; Renumbered from 735-063-0075, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0360
Serious Traffic Violations

ORS 809.525 sets forth the suspension of commercial driving privileges based on the accumulation of convictions of serious traffic violations. Offenses from other states are posted to an Oregon driver record using an AAMVAnet Code Dictionary (ACD) code. Therefore, offenses are shown below with the applicable Oregon statute and the corresponding ACD code(s). DMV designates the following offenses serious traffic violations:

(1) A violation, while operating a motor vehicle and a holder of commercial driving privileges, of:

(a) Reckless driving — ORS 811.140, ACD code M84;

(b) Any law establishing a speed limit, if the person is operating the motor vehicle 30 miles per hour or more above the posted limit and a court orders a suspension under ORS 811.109; or

(c) Any law establishing a speed limit, if the person is operating the motor vehicle at a speed of 100 miles per hour or greater, ORS 811.109.

(2) A violation, while operating a CMV, of:

(a) Any law establishing a speed limit, if the person is operating the CMV 15 miles per hour more above the posted limit — ORS 811.111, ACD codes S15, S16, S21, S26, S31, S36, S41, S71, S81, S91, S92.

(b) The basic speed rule established in ORS 811.100 if the person is operating the CMV 15 miles per hour or more above the speed established in ORS 811.105 as prima facie evidence of violating of the basic speed rule.

(c) Operating a CMV without driving privileges — ORS 807.010(1), ACD code B56.

(d) Failure to carry or present to a police officer proof of commercial driving privileges - ORS 807.570, ACD code B57.

(e) Reckless driving — ORS 811.140, ACD code M84.

(f) Driving on the left on a curve or grade or at an intersection or rail crossing - ORS 811.305, ACD code M42.

(g) Failure to drive within a lane — ORS 811.370, ACD code M42.

(h) Unsafe passing on the left — ORS 811.410, ACD code M42.

(i) Unsafe passing on the right — ORS 811.415, ACD code M42.

(j) Following too closely — ORS 811.485, ACD code M34.

(k) Operating motor vehicle while using a mobile communication device — ORS 811.507, ACD codes M85, M86.

(L) Any law relating to motor vehicle traffic control if the violation is connected to a fatal accident — ACD code U31. Motor vehicle traffic control violations as used in this subsection are those listed in ORS 809.600(1) and OAR 735-064-0220, and include city traffic offenses and offenses under federal law or the laws of another state as set forth in ORS 809.600(4). This subsection does not apply to violations of parking laws or laws regulating vehicle weight or equipment.

(m) Operating a CMV without proper classification or endorsement — ORS 807.010, ACD code B91.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.525
Other Auth.: 49 CFR ¦383.51
Stats. Implemented: ORS 809.525
Hist.: DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15; Renumbered from 735-063-0130, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0370
Effect of Suspension, Cancellation or Revocation on Commercial Driving Privileges

(1) Oregon Class C non-commercial driving privileges are the base privileges upon which commercial driving privileges are added. A person who has a valid Oregon CLP or CDL also has valid Oregon Class C non-commercial privileges.

(2) Any suspension, cancellation or revocation of the person's Class C non-commercial privileges is also a suspension, cancellation or revocation of the person's commercial driving privileges.

(3) If a person is subject to a period of suspension of commercial driving privileges in addition to a suspension of the Class C non-commercial privileges, DMV will notify the person of the proposed suspension of commercial driving privileges in a separate notice. This section does not apply to a proposed suspension under Oregon's Implied Consent Laws, ORS 813.095 – 813.136.

(4) If the person is subject to a suspension, cancellation or revocation of the person's commercial driving privileges only, DMV will notify the person that the sanction applies only to the person's commercial driving privileges. If a consecutive suspension is required under Oregon law, the notice will inform the person of the effective dates of the consecutive suspension.

(5) A person whose commercial driving privileges are suspended, cancelled or revoked but whose Class C non-commercial driving privileges are valid may downgrade the person's commercial driving privileges, surrender the CDL, and obtain a Class C non-commercial license. A person who downgrades the commercial driving privileges granted by a CDL may regain the downgraded privileges, without retesting, within three years after the privileges are downgraded or within three years after the effective date of the earliest suspension or cancellation of commercial driving privileges that was in effect at the time of downgrade, whichever is earlier. This ability to regain surrendered commercial driving privileges is conditioned upon meeting all requirements for issuance of a CDL, other than testing, and does not apply to a CLP.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 809.360, 809.380, 809.430, 809.510 – 809.540
Hist.: DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-063-0380
Reinstatement of CDL Disqualification

(1) To be eligible to apply under ORS 809.520(3) for reinstatement of a lifetime suspension of commercial driving privileges imposed by DMV under ORS 809.520(2), the person must:

(a) Meet all requirements for issuance of a CDL or CLP;

(b) Provide any information requested sufficient for DMV to find there is good cause for reinstatement; and

(c) Successfully complete rehabilitation as approved by DMV and provide proof of such completion.

(3) In determining whether good cause for reinstatement has been shown, DMV will consider the person's driving record for the 10 years preceding the date of application for reinstatement. DMV

will not reinstate commercial driving privileges if any of the following appear on the person's driving record in this state or in any other jurisdiction:

(a) A conviction for an offense involving the operation of a CMV.

(b) A conviction for any offense listed in ORS 809.510.

(c) A conviction for the offense described in ORS 809.520(1).

(d) A conviction for any offenses listed in OAR 735-063-0260.

(e) A conviction for reckless endangering a highway worker in any vehicle.

(f) A suspension of driving privileges under the Driver Improvement Program or a similar program in another jurisdiction appears on the person's driving record within the three years preceding the date of application for reinstatement.

(4) The following courses are approved by DMV as meeting the rehabilitation requirement:

(a) National Safety Council, DDC Attitudinal Dynamics of Driving; and

(b) National Safety Council, DDC Professional Truck Drivers.

(5) If a required course listed in section (4) of this rule is not available in Oregon, DMV will accept proof the person has successfully completed the on-line version of the course. If a required course is not available in Oregon and there is no on-line version available, DMV may accept proof of successful completion of an equivalent rehabilitation course or program.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.520
Stats. Implemented: ORS 809.520
Hist.: DMV 15-2006, f. 10-13-06, cert. ef. 11-1-06; Renumbered from 735-070-0200, DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15; Renumbered from 735-063-0180, DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

DIVISION 64

SPECIAL DRIVER PERMITS

735-064-0005
Definitions

As used in Division 64 rules, unless the context requires otherwise:

(1) "AMH" means the Addictions and Mental Health Division of the Oregon Health Authority.

(2) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(3) "DUII" means driving under the influence of intoxicants.

(4) "Family necessities" means driving to and from grocery shopping, driving a household member to and from work, driving the applicant or the applicant's children to and from school, driving the applicant's children to and from child care, driving to and from medical appointments and caring for elderly family members.

(5) "Fee" is an amount defined in ORS 807.370.

(6) "Hardship/probationary permit" means a restricted driving privilege issued to a person whose privilege is both suspended and revoked and who is required to install an IID due to a DUII suspension.

(7) "IID" means ignition interlock device.

(8) "Intoxicants" means intoxicating liquor, any controlled substance, any inhalant or any combination of the three.

(9) "Immediate family" means the applicant's spouse or partner in a domestic relationship, children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.

(10) "Oregon resident" means a person who is domiciled in this state as defined by ORS 803.355 or is a resident of this state as defined by ORS 807.062(4) and (5).

(11) "Private transportation" means family members, friends or fellow employees who are able to serve the applicant's transportation needs.

(12) "Public transportation" means bus, shuttle or commuter service that is able to serve the applicant's transportation needs.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270 & Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 807.240, 807.270 & 813.520
Hist.: DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2001, f. & cert. ef. 1-17-01: DMV 15-2001, f. & cert. ef. 9-21-01; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 17-2006, f. & cert. ef. 11-17-06; DMV 5-2008, f. & cert. ef. 2-4-08; DMV 2-2013, f. & cert. ef. 3-22-13

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 807.250(3) does not allow the issuance of a hardship permit;

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

(c) ORS 809.419(1) for failure to appear for or pass required tests because 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;

(d) ORS 809.419(2) for failure to obtain a required medical clearance because 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(3) for a mental or physical condition because 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 809.421(1) for habitual incompetence, recklessness or criminal negligence or committing a serious violation of the motor vehicle laws because 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;

(g) ORS 809.419(5) upon notification by the superintendent of a hospital because 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;

(h) ORS 809.419(6) when a person charged with a traffic offense has been found guilty except for insanity because 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 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 813.602(1)(a) an IID must be installed before the person is eligible for a hardship permit;

(j) 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 807.240(3)(d).

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

(L) 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 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

Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0085; MV 12-1989, f. & cert. ef. 3-20-89; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 4-1999(Temp.), f. & cert. ef. 10-13-99 thru 4-9-00; DMV 1-2000, f. & cert. ef. 3-10-00; DMV 27-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-29-02; DMV 11-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 25-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 12-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 12-2009, f. & cert. ef. 6-25-09; DMV 9-2011, f. & cert. ef. 7-22-11; DMV 2-2013, f. & cert. ef. 3-22-13

735-064-0030
Hardship/Probationary Permit Waiting Periods Following Implied Consent or DUII Suspensions

Waiting periods for the issuance of a hardship/probationary permit following an implied consent or DUII suspension are listed in ORS 813.520. As used in ORS 813.520(9) a traffic crime means any traffic offense that is punishable by a jail sentence and includes:

(1) Reckless driving as defined in ORS 811.140;

(2) Failure to perform the duties of a driver involved in an accident or collision under ORS 811.700 or 811.705;

(3) Criminally driving while suspended or revoked, as defined under ORS 811.182;

(4) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;

(5) Vehicular assault of bicyclist or pedestrian under ORS 811.060;

(6) Reckless endangerment of highway workers, as defined in ORS 811.231;

(7) False accident report under ORS 811.740;

(8) Knowingly violating an out-of-service notice under ORS 825.990(2); or

(9) A violation of ORS 825.990(3).

Stat. Auth.: ORS 184.616, 184.619, 807.240 & 807.270
Stats. Implemented: ORS 807.240, 807.270 & 813.520
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0090; MV 28-1989, f. & cert. ef. 10-3-89; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 15-2002, f. & cert. ef. 8-26-02

735-064-0040
Application Requirements for a Hardship or Probationary Permit

(1) Documents required to obtain a hardship permit depend on the reason(s) for the suspension. Documents required to obtain a probationary permit depend on whether the applicant's driving privileges are also suspended and the reason for the suspension. An applicant must comply with any sections of this rule that apply to the applicant's suspension, revocation or combination of suspension(s) and revocation(s). All applicants must:

(a) Complete a Hardship/Probationary Application, (DMV Form 735-6044). This form is available at any DMV office and on the Internet at www.oregondmv.com; and

(b) Pay the hardship or probationary permit fee and the reinstatement fee.

(2) An applicant, whose driving privileges are suspended based on a conviction for DUII, reckless driving, fleeing or attempting to elude a police officer or misrepresentation of age by a minor to purchase or consume alcohol or attempt to purchase marijuana, must obtain the recommendation and signature of the convicting judge on the Hardship/Probationary Application form.

(3) An applicant, whose driving privileges are suspended for two or more DUII convictions where the commission of the later offense and the conviction for a separate offense occurred within a five-year period, must submit a recommendation for issuance of a hardship or probationary permit from a program approved by AMH.

(4) An applicant, whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card, must:

(a) Provide proof of a verifiable Social Security Number or proof of not being eligible for one;

(b) Provide proof of legal presence;

(c) Submit to the collection of biometric data and establish identity as provided in ORS 807.024; and

(d) Provide proof of identity and date of birth.

(5) Unless driving privileges are suspended for a DUII conviction, an applicant for a hardship permit must submit a SR22 insurance certificate or other proof of financial responsibility as described in ORS 806.240. An applicant whose driving privileges are suspended for a DUII conviction must submit a SR22 certificate as proof of financial responsibility that shows at least the minimum coverage amounts specified in ORS 806.075. An applicant for a probationary permit must submit a SR22 insurance certificate if the applicant's driving privileges are suspended in addition to the habitual traffic offender revocation.

(6) An applicant for a probationary permit must submit to DMV a medical report form or a report on the Hardship/Probationary Permit Application (DMV Form 735-6044), completed by a licensed physician showing to the satisfaction of DMV that the applicant has no medical condition or impairment that makes it unsafe for the applicant to operate a motor vehicle.

(7) An applicant for a probationary permit must submit verification of the successful completion of a driver improvement course approved by DMV. Names of approved courses can be obtained by contacting DMV.

(8) An applicant must provide the following information, depending upon the driving privileges sought:

(a) An applicant who is required to drive for employment purposes must provide the routes, counties, days and times the applicant is required to drive. In addition, this information must be supported by any of the following that apply:

(A) The applicant must submit a letter from the applicant's employer in order to verify the hours of work and the need for on the job driving;

(B) The applicant must submit proof of self-employment. Acceptable proof includes a copy of a business license, business tax statement, newspaper advertisement or business receipts; and

(C) The applicant must provide the days, hours and counties for seeking employment.

(b) An applicant who needs to drive to attend an alcohol or drug treatment or rehabilitation program must provide the name and address of the program, routes, days and times the applicant is required to drive to and from the program;

(c) An applicant for a hardship permit who needs to drive to receive medical treatment on a regular basis for himself or herself or a member of the person's immediate family, must provide the name and address of the medical treatment facility, routes, days and times the applicant is required to drive to receive medical treatment on a regular basis for the person or a member of the person's immediate family. The applicant must submit a signed statement from the physician or certified nurse practitioner treating the person or the person's immediate family member, advising of the need for medical treatment on a regular basis. The statement must include how often the treatment is required and hours of the day and days of the week treatment is available. Actual appointment times are subject to verification by DMV and law enforcement;

(d) An applicant for a hardship permit, whose driving privileges are suspended for violation of ORS 165.805, 471.430, or 806.010, is eligible to request driving privileges for family necessities. The applicant must provide the name and address of the person to whom or facility to which the applicant is driving for the family necessity, routes, days and times the applicant is required to drive for family necessities, as defined in OAR 735-064-0005.

(9) Applicants may submit documents to DMV as they meet requirements. DMV, however, will not issue the hardship or probationary permit until all required documents are received and processed by DMV, Driver Suspensions Unit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270
Stats. Implemented: ORS 807.240, 807.250, 807.270, 807.370, 813.500, 813.510, Ballot Measure 91 (2014), Sec. 49
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0095; MV 29-1989,

f. & cert. ef. 10-3-89; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 12-2009, f. & cert. ef. 6-25-09; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

735-064-0060
Standards for Issuance of Hardship or Probationary Permits

(1) All hardship or probationary permits shall be restricted to minimally meet the applicant's needs. Upon request, the permit holder shall be required to submit verification to DMV and/or law enforcement.

(2) DMV may issue hardship and probationary permits only for the following purposes:

(a) Occupational and employment purposes;

(b) Occupational training or education that is required by the applicant's employer;

(c) Transportation to and from an alcohol or drug treatment or rehabilitation program;

(d) To look for work; and

(e) To obtain medical treatment on a regular basis for the person or a member of the person's immediate family.

(3) Hardship permits may also be issued for family necessities, as defined in OAR 735-064-0005, if the person's driving privileges are suspended only for violation of ORS 165.805, 471.430 or 806.010.

(4) A hardship or probationary permit will not be issued for more than 12 hours of driving on any one day, except for transportation to and from an alcohol or drug treatment or rehabilitation program.

(5) A hardship or probationary permit issued to look for work will be restricted to 12 hours per day, seven days per week. It will not be issued for a period of more than 120 days at a time.

(6) DMV may deny a hardship or probationary permit to an applicant who has public or private transportation available which is sufficient to serve the applicant's transportation needs as established in sections (2) and (3) of this rule.

(7) DMV will determine whether public or private transportation is sufficient to serve the applicant's need based upon the following criteria:

(a) Convenience in terms of hours and distance;

(b) Requirements of occupation or employment;

(c) Physical limitations of applicant; and

(d) Personal safety of applicant.

(8) If the applicant is suspended for two or more reasons, the applicant must satisfy the requirements for each type of suspension.

(9) If the applicant is revoked as a habitual traffic offender and the applicant's driving privileges are also suspended, the applicant must satisfy all hardship permit requirements for each suspension in addition to the probationary permit requirements.

(10) If the applicant is suspended under ORS 809.260 for court denial of juvenile driving privileges the applicant may apply either for privileges granted under a hardship permit as described in this rule or an emergency permit as described in OAR 735-064-0230, but not both.

(11) Notwithstanding section (2) of this rule, DMV will not issue a hardship or probationary permit that authorizes a person to drive a commercial motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 807.240, 807.252 & 807.270
Stats. Implemented: ORS 25.780, 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.409-423, 813.500 & 813.602
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0105; MV 17-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 25-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 2-2013, f. & cert. ef. 3-22-13

735-064-0070
Ignition Interlock Device (IID) Requirement for Issuance of Hardship, Probationary or Hardship/Probationary Permits

(1) When a person whose driving privileges are suspended or revoked applies for a hardship, probationary or hardship/probationary permit, DMV will require the applicant to install an ignition interlock device (IID) in any vehicle operated by the applicant if the applicant's driving record shows any of the following:

(a) A current suspension based on a conviction for DUII in an Oregon court;

(b) A current IID required:

(A) As a condition of a DUII Diversion Agreement;

(B) By ORS 813.602(1) or (2) following the end of a suspension or revocation of driving privileges based on a conviction for DUII or any crime that carries a statutory minimum one, two or five year IID requirement; or

(C) As a result of DMV not receiving a IID Certification — No Negative Report (DMV form 735-7379) that would end the applicant's IID requirement.

(2) As a condition of a hardship, probationary or hardship/probationary permit, the IID must be installed, maintained and used in any vehicle the person operates for the duration of the person's IID requirement. The IID requirement may exceed the period the person's hardship, probationary or hardship/probationary permit is valid.

(3) When installation of an IID is required, DMV will not issue a hardship, probationary or hardship/probationary permit to the person until a provider submits an installation report form showing an approved device has been installed in each vehicle the person intends to operate during the permit period.

(4) Notwithstanding section (1) of this rule, DMV may issue a hardship, probationary or a hardship/probationary permit to a person who has not installed an IID if the person will only operate a vehicle(s) owned or leased by his or her employer during the course and scope of the person's employment. For purposes of ORS 813.606, DMV will place a notation on the driving record and on the hardship, probationary or hardship/probationary permit issued to the person that the person's employer has been informed of the IID requirement. To qualify, DMV must receive:

(a) A letter on business letterhead, signed by the employer, stating that the employer has been informed of the IID requirement and that the person is required to operate the employer's vehicle(s) in the course and scope of employment; or

(b) An Employer IID Exemption, (DMV form 735-6874) submitted by the employer.

(5) For purposes of ORS 813.606, a person who is self-employed is not an employee and DMV will not place an employer IID notification notation on the person's driving record.

(6) Notwithstanding section (1) of this rule, DMV may issue a hardship, probationary or hardship/probationary permit to a person who has not installed an IID if the person has been issued a medical exemption under OAR 735-070-0082.

(7) The hardship, probationary or hardship/probationary permit will contain a restriction that the person may only operate vehicles equipped with an IID. If the person operates a vehicle owned or leased by the person's employer in the course and scope of employment or has been issued a medical exemption, the hardship, probationary or hardship/probationary permit driving restrictions will state that the person must have in his or her possession a copy of the employer's IID exemption letter, a completed DMV Employer IID Exemption Form, an IID medical exemption letter issued by DMV, or an IID medical exemption approval issued by a court.

(8) The IID restriction in a hardship, probationary, or hardship/probationary permit will specify the length of time allowed for the person to travel to and from an IID provider's facility to have the IID checked or maintained.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270 & 813.602
Stats. Implemented: ORS 807.240, 807.270 & 813.602
Hist.: MV 40-1987, f. 12-11-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-031-0107; MV 18-1989(Temp), f. 8-31-89, cert. ef. 9-5-89; MV 2-1990, f. & cert. ef. 2-1-90; MV 4-1991, f. 6-18-91, cert. ef. 7-1-91; DMV 5-1994, f. & cert. ef. 7-21-94; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 15-2001, f. & cert. ef. 9-21-01; DMV 12-2007, f. 11-30-07, cert. ef. 1-1-08; DMV 21-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 12-2015, f. 12-17-15, cert. ef. 1-1-16

735-064-0080
How the Hardship or Probationary Permit Is Issued

(1) DMV will mail a hardship or probationary permit to the address the applicant submitted on his or her Hardship/Probationary Permit Application when all of the documents are received by the Driver Suspensions Unit and a hardship or probationary permit is approved. The applicant then must take the hardship or probationary permit to any DMV field office to have a restricted driver license issued.

(2) The hardship or probationary permit will contain restrictions and is part of the driver license. The person will carry the hardship or probationary permit in addition to a valid driver license at all times while driving.

(3) A hardship or probationary permit is valid for the length of the suspension or revocation period unless it is suspended or revoked pursuant to OAR 735-064-0110.

Stat. Auth.: ORS 184.616, 807.240 & 807.270
Stats. Implemented: ORS 807.240 & 807.270
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0110; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 4-2002, f. & cert. ef. 3-14-02

735-064-0090
How to Change the Hardship or Probationary Permit Driving Restrictions

(1) When the person needs to change the driving restrictions on a hardship or probationary permit, the person must submit a Hardship/Probationary Application or a letter with new information to the Driver Suspensions Unit, DMV, 1905 Lana Avenue N.E., Salem, Oregon 97314.

(2) The person must submit verification of employment as required by OAR 735-064-0040(7)(a)(A), if the change requested is employment related.

(3) The person who is suspended for two or more DUII convictions where the commission of the later offense and the conviction for a separate offense occurred within a five-year period must submit a recommendation for the change from a program approved by AMH.

(4) The person who is eligible to drive to and from medical treatment as described in OAR 735-064-0040(7)(c), must submit a signed statement from the physician as required in OAR 735-064-0040(7)(c).

(5) After the requirements of sections (1), (2), (3) and (4) of this rule have been met, DMV will mail the applicant a hardship or probationary permit with new driving restrictions. The person must carry the hardship or probationary permit in addition to a valid driver license at all times while driving.

Stat. Auth.: ORS 184.616, 802.010, 807.240 & 807.270
Stats. Implemented: ORS 807.240, 807.270 & 813.500
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0115; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2006, f. & cert. ef. 2-15-06

735-064-0100
Hardship or Probationary Permit Restrictions

(1) A person issued a hardship or probationary permit must not do any of the following:

(a) The person must not drive outside the hardship or probationary permit driving restrictions;

(b) The person must not be convicted of or forfeit bail for more than one traffic offense listed in ORS 809.600(2)(b) (including city traffic offenses and similar offenses under federal or state law) within any 12-month period. See OAR 735-064-0220 for a list of offenses and statutory references;

(c) The person must not be convicted of or forfeit bail for an offense as specified in ORS 809.600(1)(a) through (g). These offenses are: murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing, or criminal mischief resulting from the operation of a motor vehicle; reckless driving, driving while under the influence of intoxicants, failure to perform the duties of a driver involved in an accident or collision, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer, aggravated vehicular homicide or aggravated driving while suspended or revoked;

(d) The person must not use intoxicants and drive;

(e) The person must not refuse to submit to a chemical breath test, blood test or urine test;

(f) The person must not be convicted of or forfeit bail for an offense under ORS 811.170 or Ballot Measure 91 (2014), Section 73; or

(g) The person must not falsify any information appearing on the Hardship/Probationary Application.

(2) The person required to have an IID must not violate the following conditions:

(a) Drive any vehicle which does not have an IID installed unless exempted by statute and administrative rule;

(b) Drive an employer's owned or leased vehicle without an IID unless the person is carrying a copy of an employer's exemption letter, Employer IID Exemption form or medical exemption letter in his or her possession;

(c) Tamper with the IID; or

(d) Solicit another person to blow into the IID.

(3) Evidence that a restriction or condition has been violated includes, but is not limited to the following:

(a) Police reports;

(b) Accident reports;

(c) Written reports from family members or the general public;

(d) A written report which indicates the person has driven outside the hardship or probationary permit restrictions;

(e) A written report which indicates the person has been driving after using intoxicants;

(f) A written report from a police officer that indicates the person has refused the chemical breath test, blood test or urine test following an arrest for driving under the influence of intoxicants;

(g) A report from a police officer;

(h) A court conviction; and

(i) A written report from an IID provider that the person has tampered with the IID installed in his or her vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.270 & 813.510
Stats. Implemented: ORS 807.240, 807.270, 813.100, 813.510, 813.602, 813.608, 813.610, 813.612, & 813.614
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0120; MV 30-1989, f. & cert. ef. 10-3-89; DMV 4-1994, f. & cert. ef. 7-21-94; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 3-2008, f. & cert. ef. 1-25-08; DMV 27-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 2-2013, f. & cert. ef. 3-22-13; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

735-064-0110
Consequences of Violations of Restrictions, Conditions, Limitations or Requirements of a Hardship or Probationary Permit

(1) DMV will suspend a person's hardship or probationary permit when a person fails to maintain any of the requirements listed in this section. The suspension will remain in effect until the person complies with the requirement or until the requirement is no longer a condition of the hardship or probationary permit, as follows:

(a) Failure to maintain a future responsibility filing required by ORS 807.240(3)(e);

(b) Failure to maintain installation of an ignition interlock device as required by ORS 813.602(a);

(c) Failure to maintain a recommendation from a program approved by AMH as required by ORS 813.500; or

(d) Failure to maintain a recommendation from the judge that convicted the person as required by ORS 807.250.

(2) DMV will revoke a person's hardship or probationary permit when a person commits a violation of any of the restrictions or conditions of a hardship or probationary permit as listed in OAR 735-064-0100.

(3) DMV will revoke the hardship permit for 30 days, during which period the person is not eligible for another hardship permit.

(4) DMV will revoke the probationary permit for one year, during which period the person is not eligible for another probationary permit and is not eligible to reinstate driving privileges.

(5) A person whose hardship or probationary permit is revoked based on a notice from a court as specified in ORS 809.140, is entitled to an administrative review under 809.440(2). The revocation will remain in effect pending the outcome of the administrative review.

(6) A person whose hardship or probationary permit is revoked based on information other than that described in ORS 809.140, is entitled to a contested case hearing under 183.310 to 183.550. The revocation will not go into effect pending the outcome of the hearing.

(7) A person whose hardship or probationary permit is suspended due to failure to maintain a requirement of the permit is entitled to an administrative review under OAR 735-001-0050. The suspension will remain in effect pending the outcome of the administrative review.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.270 & 813.510
Stats. Implemented: ORS 807.240, 807.270, 813.500 & 813.510
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0125; MV 4-1991, f. 6-18-91, cert. ef. 7-1-91; MV 17-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 5-1995, f. & cert. ef. 3-9-95; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 4-2002, f. & cert. ef. 3-14-02; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 28-2008, f. & cert. ef. 12-15-08; DMV 2-2013, f. & cert. ef. 3-22-13

735-064-0220
Traffic Offenses Used in Habitual Offender, Driver Improvement, CMV Serious Violations and Hardship/ Probationary Driver Permit Programs

(1) A conviction for an offense listed in this rule counts toward:

(a) The Habitual Offender Program pursuant to ORS 809.600(2);

(b) The Provisional and Adult Driver Improvement Programs outlined in Oregon Administrative Rule chapter 735, division 72;

(c) Motor vehicle traffic control violations connected to a fatal accident as described in OAR 735-063-0360 that can lead to a suspension of commercial driving privileges.

(d) Revocation of a probationary driver permit pursuant to ORS 807.270(7); and

(e) Revocation of a hardship permit pursuant to OAR 735-064-0100 and 735-064-0110.

(2) This section lists the offenses and the statutory citations for Oregon offenses used in the programs identified in section (1) of this rule:

(3) Offenses from other states will be posted to driver records using an AAMVAnet Code Dictionary (ACD) code. This section identifies the code that appears on the driver record, a description of the offense and the ORS reference covering an equivalent offense(s) for Oregon: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.480 & 809.605
Stats. Implemented: ORS 807.240, 807.270, 809.480, 809.600(2) & 809.605
Hist.: MV 17-1986, f. & ef. 10-1-86; MV 33-1987, f. & ef. 11-2-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0180; MV 32-1989, f. & cert. ef. 10-3-89; MV 7-1990, f. & cert. ef. 5-16-90; MV 18-1991, f. 9-18-91, cert. ef. 9-29-91; MV 26-1991, f. & cert. ef. 11-18-91; DMV 8-1995, f. & cert. ef. 6-19-95; DMV 5-1997, f. & cert. ef. 2-20-97; DMV 8-1998, f. & cert. ef. 6-19-98; DMV 27-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-29-02; DMV 11-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 33-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 4-2004, f. & cert. ef. 2-23-04; DMV 21-2005(Temp), f. 9-19-05, cert. ef. 10-1-05 thru 3-29-06; DMV 28-2005, f. & cert. ef. 12-14-05; DMV 19-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 28-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 18-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-064-0230
Emergency Driver Permit

(1) An emergency driver permit authorizes operation of only those vehicles that the holder of a Class C non-commercial driver license may operate, and does not include operation of any vehicle for which commercial driving privileges are required or operation of a motorcycle.

(2) DMV may issue an emergency driver permit to a person between 14 and 18 years of age for an emergency situation only, and not for convenience. An emergency situation includes, but is not limited to, the need for a person to drive to and from:

(a) Medical appointments and treatment for the person or a member of the person's immediate family when no other means of transportation is available;

(b) Work or on the job when no other transportation is available and the person's employment is essential to the welfare of the person's family;

(c) Work or on the job when the person's employment is necessary to help harvest crops that may go unharvested or be lost if the person is unable to drive; and

(d) Grocery stores when no other means of transportation is available.

(3) DMV may issue an emergency driver permit to a person for an emergency situation when a court has issued an order of denial of the person's driving privileges under ORS 809.260. For purposes of this subsection, an emergency situation includes, but is not limited to:

(a) Those emergencies situations listed in Section (2) of this rule; and

(b) The need to drive to and from school when no other means of transportation is available.

(4) Except as provided in section (5) of this rule, an applicant for an emergency driver permit must:

(a) Submit a completed Student/Emergency Permit Application, Form 735-0009 or Court Denial Emergency Driver Permit Application, Form 735-0009a;

(b) Provide proof satisfactory to DMV detailing the need for an emergency driver permit signed by the applicant, and the applicant's parent or legal guardian, if the applicant is under 18 years of age and is not an emancipated minor, including, but not limited to:

(A) The circumstances of the emergency;

(B) The expected end date of the emergency;

(C) A complete description of the days, times and routes to be traveled;

(D) The name and address of the medical facilities, routes, days and times the applicant is required to drive to appointments or treatment on a regular basis, if the applicant needs to drive to medical appointments or to receive medical treatment on a regular basis for himself or herself or a member of the applicant's immediate family. The applicant also must submit a signed statement from the physician, physician assistant or certified nurse practitioner treating the applicant or the applicant's immediate family member, advising of the need for medical appointments or treatment on a regular basis. The statement must include how often appointments or treatments are required and the hours of the day and days of the week appointments or treatments are available. Actual appointment and treatment times are subject to verification by DMV and law enforcement;

(E) A signed letter from the applicant's employer on company letterhead stating the days and hours the applicant works if the applicant is applying to drive for employment purposes; and

(F) The signature of a school administrator on the application certifying that there is no other school or public transportation available and that the applicant attends school on the days and hours stated on the application, if the applicant is applying to travel to and from school.

(c) Pay all applicable fees;

(d) Pay the reinstatement fee as established under ORS 807.370 if the applicant's driving privileges are suspended by court denial;

(e) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, division 062, for issuance of a Class C non-commercial driver license; and

(f) Have an instruction driver permit, if the applicant is over 15 years of age, or if under 15 years of age, obtain an instruction driver permit within 60 days after the applicant's 15th birthday. This subsection does not apply to an applicant who is only eligible for an emergency permit because his or her driving privileges are suspended by a court ordered denial of driving privileges under ORS 809.260.

(5) To be eligible for an emergency driver permit, an applicant does not need to:

(a) Possess an instruction driver permit for at least six months prior to applying for an emergency driver permit;

(b) Have at least 50 hours of driving experience with a licensed driver over the age of 21; or

(c) Complete a traffic safety education course.

(6) In addition to any other driving restrictions that may be imposed by DMV, the holder of an emergency driver permit, who is under 18 years of age, may not drive a motor vehicle carrying any passenger under 20 years of age who is not a member of the permit holder's immediate family.

(7) Except as provided in section (9) of this rule, an emergency driver permit issued prior to the applicant's 16th birthday will expire on the following date, whichever occurs first:

(a) At the end of the emergency; or

(b) Six months and 60 days after the emergency driver permit holder's 16th birthday.

(8) Except as provided in section (9) of this rule an emergency driver permit issued on or after the applicant's 16th birthday and prior to the applicant's 18th birthday will expire on the following date, whichever occurs first:

(a) At the end of the emergency;

(b) Six months and 60 days after issuance of the emergency driver permit; or

(c) One week after the emergency driver permit holder's 18th birthday.

(9) Section (7) and (8) of this rule are not applicable to an emergency driver permit issued because a court ordered denial of driving privileges, under ORS 809.260, which expires on the following date, whichever comes first:

(a) At the end of the emergency; or

(b) At the end of the suspension period.

(10) After the end of the suspension period for a court order denial of driving privileges under ORS 809.260, a person issued an emergency driver permit may be eligible to apply for a driver license or driver permit, including an emergency permit or special student driver permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.220

Stats. Implemented: ORS 807.220

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0006; MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 1-2001, f. & cert. ef. 1-17-01; DMV 19-2006, f. & cert. ef. 12-13-06; DMV 4-2008, f. & cert. ef. 1-25-08; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-064-0235
Special Student Driver Permit

(1) A special student driver permit authorizes operation of only those vehicles that the holder of a Class C driver license may operate, and does not include operation of any vehicle for which commercial driving privileges are required or operation of a motorcycle.

(2) A special student driver permit authorizes a person to only drive between the person's home and the closest alternate means of transportation, or if alternate transportation does not exist, between home and the school, college or other educational institution in which the person is enrolled and is attending for an educational purpose. An educational purpose includes participation in extra-curricular activities as long as the student drives only to his or her school, college or educational institution for which the permit is issued.

(3) Except as provided in section (4) of this rule, an applicant for a special student driver permit must:

(a) Submit a completed Student Driver's Permit Application, Form 735-0009, signed by the applicant's parent or legal guardian and endorsed by the sheriff of the county in which the applicant resides and the principal of the school or educational institution, or registrar of the college, in which the applicant is enrolled;

(b) Pay all applicable fees;

(c) Have an instruction driver permit, if the applicant is over 15 years of age, or if under 15 years of age, obtain an instruction driver permit within 60 days after the applicant's 15th birthday;

(d) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, Division 062, for issuance of a Class C non-commercial driver license; and

(e) Provide proof satisfactory to DMV that the applicant has no other means of transportation available including but not limited to:

(A) A map(s) showing the route between the applicant's home and alternate transportation or home and the school, college or educational institution in which the applicant is enrolled and public transportation routes; and

(B) The hours for which the applicant needs the special student permit and a copy of public transportation schedules.

(4) To be eligible for a special student driver permit, an applicant does not need to:

(a) Possess an instruction driver permit for at least six months prior to applying for a special student driver permit;

(b) Have at least 50 hours of driving experience with a licensed driver over the age of 21 years of age; or

(c) Complete a traffic safety education course.

(5) In addition to any other driving restrictions that may be imposed by DMV:

(a) The holder of a special student driver permit may not drive a motor vehicle carrying any passenger under 20 years of age who is not a member of the special student permit holder's immediate family; and

(b) The holder of a special student driver permit may not drive between 12 midnight and 5 a.m.

(6) A special student driver permit issued prior to the applicant's 16th birthday will expire on the following date, whichever occurs first:

(a) When the applicant has other means of transportation to and from school, college or other educational institutions; or

(b) Six months and 60 days after the applicant's 16th birthday.

(7) A special student driver permit issued on or after the applicant's 16th birthday and prior to the applicant's 18th birthday will expire on the following date, whichever occurs first:

(a) When the applicant has other means of transportation to and from school, college or other educational institution;

(b) Six months and 60 days after issuance; or

(c) One week after the applicant's 18th birthday.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.230

Stats. Implemented: ORS 807.230

Hist.: DMV 12-1996, f. & cert. ef. 12-20-96; DMV 1-2001, f. & cert. ef. 1-17-01; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 19-2006, f. & cert. ef. 12-13-06; DMV 4-2016, f. 9-22-16, cert. ef. 9-26-16

735-064-0237
Cancellation of an Emergency Driver Permit or Special Student Driver Permit

(1) A person issued an emergency driver permit or special student driver permit shall not drive outside the permit driving restrictions. DMV will cancel an emergency driver permit or special student driver permit if DMV determines that the permit holder has driven outside the permit driving restrictions.

(2) In making a determination under section (1) of this rule, DMV may rely on information that indicates the person has driven outside the permit restrictions including, but not limited to the following:

(a) A police report which indicates the permit holder has driven outside of the permit driving restrictions;

(b) An accident report which indicates the permit holder has driven outside of the permit driving restrictions;

(c) A letter, on Sheriff's Department letterhead, signed by the sheriff of the county in which the permit holder resides, which indicates the permit holder has driven outside of the permit driving restrictions;

(d) A letter, on school letterhead, signed by the principal of the school the permit holder attends, which indicates the permit holder has driven outside of the permit driving restrictions;

(e) Any court conviction which indicates the permit holder has driven outside of the permit driving restrictions; or

(f) A written report from any individual which indicates the permit holder has driven outside of the permit driving restrictions. The report must be signed by the author and must identify the author in a manner which will allow DMV to contact him/her for further information, if necessary.

(3) DMV will reissue driving privileges to a person whose special student driver permit is cancelled as outlined in OAR 735-070-0010(12).

(4) DMV will reissue driving privileges to a person whose emergency driver permit is cancelled as outlined in OAR 735-070-0010(13).

(5) The person whose emergency driver permit or special student driver permit is canceled will be provided notice and opportunity for an administrative hearing under ORS 809.310(1) and OAR 735-070-0020(6).

Stat. Auth.: ORS 184.616, 184.619, 807.220 & 807.230
Stats. Implemented: ORS 807.220 & 807.230
Hist.: DMV 4-1998, f. & cert. ef. 4-15-98; DMV 19-2006, f. & cert. ef. 12-13-06

DIVISION 70

DRIVER LICENSES — REFUSAL, SUSPENSIONS, CANCELLATIONS, REVOCATION AND REINSTATEMENT

735-070-0000
Driver License Cancellations — Not Entitled to Driving Privileges

(1) DMV will, under the provisions of ORS 807.350 and 809.310(1), cancel a person's driving privileges if DMV determines the person is not entitled to or no longer qualified for a driver permit or driver license.

(2) A person is not entitled to a driver permit or driver license if the person does not meet the eligibility requirements of ORS 807.024, 807.040, 807.060, 807.062, 807.065, 807.066 and 807.070.

(3) A person is not entitled to a driver permit or driver license if the person's driving privileges are suspended or revoked in any jurisdiction.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 802.540, 807.040, 807.050, 807.060, 807.070, 807.120, 807.150, 807.400 & 809.310
Hist.: MV 16-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0061; MV 11-1988(Temp), f. & cert. ef. 4-1-88; MV 19-1988, f. & cert. ef. 6-1-88; MV 8-1989, f. & cert. ef. 2-1-89; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 24-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 9-2010, f. & cert. ef. 4-28-10

735-070-0004
Cancellation and Suspension Actions Under ORS 809.310

(1) Pursuant to ORS 809.310(1) and (2) and 807.400(17), DMV will cancel any driver license, driver permit or identification card when DMV determines that it was issued on the basis of false information given to DMV or determines that the person is not entitled to driving privileges or the identification card. The cancellation action may be taken in addition to the suspension actions authorized by section (3) of this rule.

(2) When DMV cancels a person's driver license, driver permit or identification card under section (1) of this rule, DMV may cancel any other driver license, driver permit or identification card issued to the person to which the person is not entitled or which was issued on the basis of false information given to DMV.

(3) Pursuant to ORS 809.310(3) and 809.415(5), DMV will suspend driving privileges and the right to apply for driving privileges if DMV determines that a person has knowingly committed any of the acts identified in ORS 809.310(3)(a) through (h). The suspension will be imposed regardless of when the act occurred.

(4) When DMV suspends a person's driving privileges pursuant to ORS 809.411(9) because the person has been convicted of any of the acts identified in 809.310(3) (a) through (h), or because DMV has determined the person knowingly committed any of the acts identified in 809.310(3)(a) through (h), DMV will suspend any other driving privileges issued to the person and the person's right to apply for driving privileges.

(5) Notwithstanding sections (3) and (4) of this rule, when DMV has determined a person gave a false or fictitious address to DMV, DMV will cancel but not suspend the person's driver license, driver permit or identification card under section (1) of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 809.310 & 809.320
Hist.: MV 8-1989, f. & cert. ef. 2-1-89; MV 18-1993, f. 12-17-93, cert. ef. 1-1-94; DMV 16-1994, f. & cert. ef. 12-20-94; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 11-2011, f. & cert. ef. 11-23-11; DMV 13-2012, f. & cert. ef. 9-20-12

735-070-0006
Reinstatement of Driving Privileges Suspended for Obtaining False ID

(1) Chapter 14, Oregon Law 2012 allows DMV to reinstate driving privileges prior to the full year suspension required under ORS 809.415(5) if DMV determines the person committed an act constituting an offense described in ORS 809.310(3)(a) or (b) when he or she was under 21 years of age and the only reason for the act was to obtain a driver license, driver permit or identification card that would make the person appear old enough to purchase or consume alcohol or to enter licensed premises prohibited to minors.

(2) A person may request reinstatement of driving privileges if the person's driving privileges or right to apply for driving privileges are suspended under ORS 809.415(5) and OAR 735-070-0004(3) for committing an act that constitutes an offense under ORS 809.310(3)(a) or (b). To request reinstatement, the person must submit a written request for an administrative review. The request for an administrative review must include a signed statement describing how and for what purpose the person obtained a driver license or identification card when he or she committed the act under ORS 809.310(3)(a) or (b).

(3) Upon receipt of a request described under section (2) of this rule, DMV will conduct an administrative review to determine if the person's driving privileges or right to apply for driving privileges should be reinstated. DMV will authorize reinstatement of driving privileges or the right to apply, only if DMV determines the circumstances of the person's commission of an act under ORS 809.310(3)(a) or (b) meets all of the following criteria:

(a) The person was under 21 years of age at the time the person committed the act;

(b) The person's driving privileges were not suspended or revoked at the time the person committed the act;

(c) The person did not commit more than one act described in ORS 809.310(3)(a) or (b); and

(d) It appears from the statement provided that the act was committed solely for the purpose of attempting to purchase, purchasing, consuming or acquiring alcoholic beverages or entering or attempting to enter licensed premises posted or otherwise identified as being prohibited to the use of minors.

(4) Upon completion of an administrative review, DMV will issue an order. If DMV determines the circumstances of the person's commission of an act under ORS 809.310(3)(a) or (b) meet the criteria set forth in section (3) of this rule, the person's driving privileges or right to apply for driving privileges will be reinstated upon payment of a reinstatement fee.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 2012 OL Ch. 14
Stats. Implemented: ORS 809.310, 809.320 & 2012 OL Ch. 14
Hist.: DMV 15-2012, f. & cert. ef. 11-19-12

735-070-0010
Reinstatement Following Cancellation or Suspension Under ORS 807.220, 807.230, 807.350, 809.310 and 809.320

(1) DMV will reissue a driver permit, driver license or identification card to a person whose driving privileges or identification card is canceled under ORS 809.310(1) because the person is not entitled only if the person corrects the condition that caused the cancellation and otherwise meets all requirements for driving privileges or an identification card.

(2) DMV will reissue a driver permit, driver license or identification card canceled under ORS 809.310(2) because there is an error, i.e. wrong class of license or permit, incorrect endorsement; incorrect date of birth, name, expiration date or issue date once the person surrenders the driver permit, driver license or identification card with the error. If the information on the driver permit, driver license or identification card is wrong because of a DMV error, a no fee replacement will be issued.

(3) DMV will reissue a driver permit, driver license or identification card canceled under ORS 809.310(2) because the address is not the person's residence address as required by law once the person surrenders the driver permit, driver license or identification card with the incorrect information and the person provides DMV with acceptable documentary proof of residence address as described in OAR 735-062-0030(1) and pays all applicable fees.

(4) Notwithstanding sections (1), (2) and (3) of this rule, when a person whose driving privileges or identification card are canceled under ORS 809.310(1) or 809.310(2) is not a resident of Oregon, DMV will rescind the cancellation to allow the person to obtain driving privileges or an identification card in another jurisdiction but will not reissue an Oregon driver license, driver permit, or identification card. The person must:

(a) Request that DMV rescind the cancellation;

(b) Have corrected all applicable conditions that caused the cancellation except for the domicile or residency requirements under ORS 807.062; and

(c) Provide verification from another jurisdiction that:

(A) The person has applied and meets the requirements for driving privileges or an identification card in that jurisdiction;

(B) The person has surrendered his or her Oregon driver license or identification card to the jurisdiction, or has stated that the card was surrendered to DMV or that it was lost, destroyed or mutilated; and

(C) The cancellation must be rescinded in order for the person to qualify for driving privileges or an identification card in the other jurisdiction.

(5) DMV will issue a driver license, driver permit or identification card when a person described in section (4) of this rule returns to Oregon and the person corrects the condition that caused the cancellation and meets all eligibility requirements for driving privileges or an identification card and pays all applicable fees.

(6) DMV will reinstate the person's driving privileges or identification card, including his or her right to apply suspended under ORS 809.310(3)(b)–(h) when:

(a) One year has elapsed since the effective date of the suspension; and

(b) The person pays the reinstatement fee.

(7) When a person's driving privileges or identification card, including the right to apply, is suspended under ORS 809.310(3)(a), DMV will reinstate the driving privileges or identification card one year from the effective date of the suspension if the person:

(a) Provides a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005(2);

(b) Provides proof of legal presence as provided in OAR 735-062-0015;

(c) Submits to the collection of biometric data and establishes identity as provided in ORS 807.024 and OAR 735-062-0016;

(d) Provides proof of identity and date of birth as provided in OAR 735-062-0020;

(e) Submits proof of residence address as provided in OAR 735-062-0030(1); and

(f) Pays the reinstatement fee.

(8) Notwithstanding section (7) of this rule, when a person's driving privileges or identification card are suspended under ORS 809.310(3)(a) and is no longer a resident of Oregon, he or she may request to have his or her driving privileges, identification card or right to apply be reinstated in order to be issued in another jurisdiction. DMV will not issue an Oregon driver license, driver permit or identification card, but will reinstate the driving privileges, identification card or right to apply when:

(a) One year has elapsed since the effective date of the suspension;

(b) The person provides verification from another jurisdiction that:

(A) The person has applied and meets the requirements for driving privileges or an identification card in that jurisdiction; and

(B) The person has surrendered his or her Oregon driver license or identification card to that jurisdiction, or has stated that the card was surrendered to DMV or that it was lost, destroyed or mutilated; and

(c) The person pays the reinstatement fee.

(9) A person described in section (8) of this rule, who returns to Oregon, may be eligible for a driver license, driver permit or identification card. DMV will issue a driver license, driver permit or identification card when:

(a) Provides a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005(2);

(b) Provides proof of legal presence as provided in OAR 735-062-0015;

(c) Submits to the collection of biometric data and establishes identity as provided in ORS 807.024 and OAR 735-062-0016;

(d) Provides proof of identity and date of birth as provided in OAR 735-062-0020;

(e) The person submits proof of residence address as provided in OAR 735-062-0030(1); and

(f) The person meets all eligibility requirements for driving privileges or an identification card and pays all applicable fees.

(10) When DMV cancels a person's driver permit or driver license for withdrawal of consent under ORS 809.320, DMV will reinstate driving privileges when the person:

(a) Pays a replacement driver permit or driver license fee or a renewal fee, if applicable; and

(b) Submits one of the following if the person is under 18 years of age:

(A) An application for a driver permit or driver license that is signed by the person's mother, father or legal guardian;

(B) Court papers showing that the person is declared emancipated by the court; or

(C) Evidence that the person is married.

(11) When DMV cancels a person's driving privileges because the person is not qualified or does not meet the requirements under ORS 807.350, DMV will not grant driving privileges until the person meets the requirements and demonstrates qualification for a driver license under 807.040, 807.050, 807.060, 807.062, 807.065, 807.066 and 807.070.

(12) When the special student driver permit of a person under 16 years of age is canceled under ORS 807.230(7), DMV will only issue driving privileges when the person has reached 16 years of age and if the person is eligible and meets all applicable requirements in 807.040, 807.065 and 807.066 and OAR 735-062-0007 to obtain a driver permit or driver license. When the special student driver permit of a person over 16 years of age is canceled, DMV will not reissue a special student driver permit however the person may apply for a driver license if eligible and if the person meets all applicable requirements in ORS 807.040, 807.065, 807.066 and OAR 735-062-0007.

(13) When an emergency driver permit is canceled under ORS 807.220(3)(g), DMV will:

(a) Reissue an emergency driver permit after one year has elapsed from the effective date of the cancellation if the person is eligible and meets the requirements in OAR 735-064-0230; or

(b) Issue a driver permit or a driver license if the person is eligible and meets all applicable requirements in ORS 807.040, 807.065 and 807.066 and OAR 735-062-0007.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 807.021, 807.022, 807.220, 807.230, 807.400, 809.310 & 809.320

Hist.: MV 16-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0064; MV 14-1992, f. & cert. ef. 10-16-92; MV 18-1993, f. 12-17-93, cert. ef. 1-1-94; DMV 16-1994, f. & cert. ef. 12-20-94; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 27-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 13-2006, f. 9-22-06, cert. ef. 10-2-06; DMV 19-

2006, f. & cert. ef. 12-13-06; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12

735-070-0015
NDR/PDPS and CDLIS Checks at Reinstatement

(1) Before reinstating suspended driving privileges, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS) to determine if the person's driving privileges are suspended, revoked, canceled, or otherwise not valid in any other jurisdiction.

(2) DMV will not reinstate suspended driving privileges until the person's driving privileges are reinstated or otherwise valid in all jurisdictions, unless the only remaining reinstatement requirement in another jurisdiction is proof of financial responsibility. Nothing in this section prohibits DMV from reinstating a regular Class C driver license to a person whose commercial driving privileges are not valid in all other jurisdictions as long as the person's regular Class C or equivalent driving privileges are valid in all other jurisdictions.

(3) This rule does not apply if:

(a) The person has never been issued Oregon driving privileges;

(b) The person's Oregon-issued driving privileges are expired, revoked or cancelled; or

(c) The person's Oregon-issued driving privileges are suspended but the person has subsequently been issued driving privileges in another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.040, 807.060, 807.249, 809.380, 809.390 & 809.400
Hist.: DMV 14-2006, f. 9-29-06, cert. ef. 10-2-06

735-070-0020
Hearing Following a Cancellation

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will grant a contested case hearing for cancellation actions in accordance with sections (5) and (6) of this rule.

(2) A request for a hearing on the cancellation of a driver permit, driver license or identification card must comply with the requirements established in OAR 735-070-0110.

(3) When DMV receives a timely request for a hearing on the cancellation of a driver permit, driver license, or identification card, the cancellation will not go into effect pending the outcome of the hearing, except in the following situations:

(a) When DMV determines that there is a serious danger to the public health, safety, or welfare;

(b) When the cancellation is due to a person's inability to establish identity as required in ORS 807.024 and OAR 735-062-0016;

(c) When the cancellation is for withdrawal of parent's consent; or

(d) When the cancellation has gone into effect.

(4) For the purposes of this rule, a serious danger to the public health, safety or welfare includes, but is not limited to, the following:

(a) A false or fraudulent driver permit, driver license or identification card has been issued and it could be used to facilitate:

(A) A minor's acquisition of alcoholic beverages;

(B) The cashing of forged checks;

(C) The acquisition of property under false pretenses; or

(D) Any other unlawful activity.

(b) A driver permit or driver license is issued to a person whose driving privileges are suspended or revoked at the time the driver permit or driver license is issued. This applies to a situation where DMV would not have issued the driver permit or driver license had it known at the time that the person's driving privileges were suspended or revoked.

(c) A person determined by DMV to be an endangerment to persons or property and denied further testing through cancellation of driving privileges under ORS 807.350 and OAR 735-062-0073(5).

(5) The Office of Administrative Hearings will conduct hearings held on identification card cancellations under ORS 807.400 as contested cases in accordance with 183.310 to 183.550.

(6) The Office of Administrative Hearings will conduct hearings held on driver permit or driver license cancellations under ORS 809.310 not based on a conviction as contested cases in accordance with 183.310 to 183.550.

Stat. Auth.: ORS 183.415, 184.616, 802.010, 807.173 809.440 & 814.619
Stats. Implemented: ORS 807.173 & 809.310
Hist.: MV 16-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0067; MV 9-1989, f. & cert. ef. 2-1-89; MV 5-1992, f. & cert. ef. 4-16-92; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 3-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 18-2005(Temp), f. & cert. ef. 8-18-05 thru 2-13-06; DMV 26-2005, f. & cert. ef. 12-14-05; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08

735-070-0030
Suspension/Revocation for Out-of-State Conviction, Suspension or Revocation

(1) For purposes of ORS 809.400(1):

(a) The date a notice of conviction is received by the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) is:

(A) The date the notice of conviction is date stamped by the Driver Records Unit; or

(B) The date the notice of conviction is electronically transmitted to Oregon DMV from the reporting jurisdiction.

(b) "Initiated" means the date the conviction is entered on the person's Oregon driving record.

(c) A conviction is entered on the person's Oregon driving record when it is manually placed on the record by DMV or when it is transmitted from the reporting jurisdiction if received electronically.

(2) Except as provided in ORS 809.400(1), DMV will suspend or revoke the driving privileges of any resident of this state upon receiving notice of the conviction of the person in another jurisdiction for an offense which, if committed in this state, would be grounds for suspending or revoking of the person's driving privileges.

(3) DMV will suspend the driving privileges of a resident of this state, upon receiving notice from another state, territory, federal possession or district, or province of Canada that the person's driving privileges have been suspended or revoked in that jurisdiction under circumstances which would require DMV to suspend driving privileges under ORS 813.410(1) if the conduct had occurred in Oregon.

(4) DMV will suspend the commercial driving privileges of a resident of this state pursuant to ORS 809.413(12), upon receiving notice that the person's commercial driving privileges have been suspended or revoked in another jurisdiction under circumstances that would require DMV to suspend driving privileges if the conduct had occurred in Oregon. The period of suspension will be the same as would be imposed if the conduct had occurred in Oregon.

(5) A suspension under section (3) of this rule will continue until evidence acceptable to DMV is received that the person has complied with the law of the reporting jurisdiction, driving privileges have been restored in the reporting jurisdiction, or the revocation or suspension in the other jurisdiction was not imposed under circumstances that would require DMV to suspend driving privileges under ORS 813.410(1) if the conduct had occurred in Oregon. Acceptable evidence is:

(a) A letter on letterhead from the reporting jurisdiction showing the person has complied with the jurisdiction's law or that driving privileges have been restored.

(b) A certified copy of the driving record from the reporting jurisdiction showing the restoration of driving privileges;

(c) Response to a DMV inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) indicating the person's driving privileges are not suspended, revoked, cancelled or otherwise not valid in the reporting jurisdiction; or

(d) A copy of the reporting jurisdiction's law and any relevant documents showing the suspension or revocation was not imposed

under circumstances that would require DMV to suspend if the conduct had occurred in Oregon.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.400
Stats. Implemented: ORS 802.540, 809.413 & 809.400
Hist.: MV 10-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0053; MV 16-1990, f. & cert. ef. 9-25-90; MV 1-1992, f. & cert. ef. 2-18-92; DMV 6-1995, f. & cert. ef. 3-9-95; DMV 22-2004, f. 11-17-04, cert. ef. 1-1-05; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 26-2008, f. & cert. ef. 10-23-08

735-070-0035
Effect of Commercial Driver License Suspension on Class C Driver License

(1) A person's commercial motor vehicle driving privileges may be suspended without affecting the person's privileges to operate vehicles which may be operated with a Class C driver license.

(2) When a person's commercial driver license is suspended independently of the Class C license, the person may not be issued a hardship permit to operate commercial motor vehicles.

(3) When a person's commercial driver license is suspended independently of the Class C license, the person shall surrender his or her commercial driver license for a Class C driver license.

Stat. Auth.: ORS 802.010, 802.200, 807 & Ch. 636, OL 1989
Stats. Implemented: ORS 809.240 & §51, Ch. 636, OL 1989
Hist.: MV 6-1990, f. & cert. ef. 4-2-90

735-070-0040
Definition of "Address as Shown by Driver Licensing Records of the Department"

(1) "Address as shown by driver licensing records of the department," as used in ORS 809.430 relating to mailing of notice, is defined as the address contained in the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV)'s computerized customer file:

(2) When a person's Oregon license, permit or identification card is expired, suspended, revoked or has not been issued, this address shall be the address shown on the computerized customer file, except when the suspension or revocation is pursuant to ORS 809.410(1) through (8) and 813.400. In this case, the address of record shall be the address contained on the source document that initiated the suspension or revocation unless the customer file shows a change of address processed after the address was recorded on the source document.

Stat. Auth.: ORS 184.616
Stats. Implemented: ORS 809.430
Hist.: MV 17-1980, f. & ef. 9-18-80; Administrative Renumbering 3-1988, Renumbered from 735-031-0055; MV 33-1989, f. & cert. ef. 10-3-89; DMV 1-1995, f. & cert. ef. 1-23-95

735-070-0050
Designated Agents for Vehicle Suspensions

The Driver and Motor Vehicle Services Division of the Department of Transportation may designate any peace officer as its agent for the purposes of assisting in the maintaining, storage, and disposing of license plates and vehicle registration cards secured under ORS 809.020(2)(a).

Stat. Auth.: ORS 809
Stats. Implemented: ORS 809.020
Hist.: MV 24-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0800

735-070-0054
Police Reports for Implied Consent Suspension Under ORS 813.100, 813.120, 813.132 and 813.410

(1) A police report required by ORS 813.100 must be submitted to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) on forms approved and distributed by the department.

(2) For the Driver Suspensions Unit to suspend a person's non-commercial Class C driving privileges, commercial driver license, or both or right to apply for driving privileges or a commercial driver license under ORS 813.410 for failure of a breath test or for refusal of a breath, blood or urine test, the implied consent form(s) must:

(a) Be received by DMV on or before the 30th day after the date of arrest; and

(b) Contain the following information:

(A) Specify all of the following that apply:

(i) The person failed a breath test;

(ii) The person refused a breath test;

(iii) The person refused a blood test;

(iv)The person refused a urine test;

(v) The person was operating a commercial motor vehicle;

(vi) The person was operating a vehicle transporting hazardous materials.

(B) A date of arrest; and

(C) The reporting officer's signature below the statement, "I affirm by my signature that the foregoing events occurred." The officer's signature will be considered acceptable if located anywhere on the line of the form directly below the statement.

(3) For the Driver Suspensions Unit to suspend a person's non-commercial Class C driving privileges, commercial driver license, or both or right to apply for driving privileges or a commercial driver license under ORS 813.410 for failure of a blood test, the police report form must be received by DMV on or before the 45th day after the date of arrest and must indicate that the person failed a blood test and whether the person was operating a commercial motor vehicle, as well as the information required in paragraphs (2)(b)(B) and (C) of this rule.

(4) If an implied consent suspension has been posted pursuant to this rule and a timely hearing request has not been submitted as provided for in ORS 813.410(3), the driver may have the implied consent suspension withdrawn only by:

(a) Having the police agency or district attorney's office follow procedures outlined in OAR 735-070-0055;

(b) Obtaining and prevailing at a hearing under ORS 813.440; or

(c) The Driver Suspension Unit, when it withdraws the suspension pursuant to ORS 813.460 and OAR 735-070-0060.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 813.100 & 813.120.
Stats. Implemented: ORS 813.100, 813.120, 813.130 & 813.404 - 813.460
Hist.: DMV 7-1995, f. & cert. ef. 3-9-95; DMV 12-1995, f. & cert. ef. 12-14-95; DMV 9-1996, f. & cert. ef. 10-10-96; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 12-2011, f. & cert. ef. 11-23-11

735-070-0055
Withdrawal of Implied Consent Forms by Police Agency

(1) The Driver Suspension Unit of the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall allow the withdrawal of any form issued under ORS 813.100 when the unit receives written notice from the original reporting police agency or, if the police agency no longer exists, from the district attorney's office in the jurisdiction of the originating police agency. The notice of withdrawal shall:

(a) State which requirements under ORS 813.120 were not met;

(b) Be written on official police agency letterhead or on letterhead of the district attorney's office if the police agency no longer exists;

(c) Be signed by the head of the police agency that issued the form or another superior officer in the agency, or the district attorney or the district attorney's designee if the police agency no longer exists;

(d) State the name of the person to whom any form issued under ORS 813.100 was issued and the date of the arrest; and

(e) Be submitted to the Driver Suspensions Unit of DMV.

(2) DMV shall not allow the withdrawal of any form issued under ORS 813.100 if an Implied Consent hearing has been held and a final order has been issued.

Stat. Auth.: ORS 184.616
Stats. Implemented.: ORS 813.100, 813.120, 813.410 & OL 1995, Ch. 676
Hist.: MV 3-1990, f. & cert. ef. 2-1-90; MV 18-1990, f. 11-19-90, cert. ef. 12-1-90; MV 4-1993, f. & cert. ef. 7-16-93; DMV 12-1995, f. & cert. ef. 12-14-95

735-070-0060

Procedure for Rescinding Implied Consent Suspensions of Wrong Person Under ORS 813.460

(1) When the Department of Transportation, Driver and Motor Vehicle Services Division (DMV) must verify to its satisfaction that it has suspended the driving privilege of the wrong person under ORS 813.410, the Driver Suspensions Unit of DMV must receive written notice from the original reporting police agency or, if the police agency no longer exists, from the District Attorney's office in the jurisdiction of the originating police agency. The notice:

(a) Must be signed by the reporting officer or a superior officer, or the district attorney if the police agency no longer exists;

(b) Must state the name of the person whose name was falsely used;

(c) Should include the name, address and date of birth of the person actually arrested for driving under the influence of intoxicants, if known; and

(d) Should include the date of arrest.

(2) When the Driver Suspensions Unit receives this notice, it will rescind the suspension that was entered on the driving record of the person whose name was falsely used.

(3) If the notice includes the correct name of the person actually arrested for driving under the influence of intoxicants, the Driver Suspensions Unit will issue a notice of suspension to the person's address as shown by DMV records.A suspension order under this section is subject to the following:

(a) The suspension begins 35 days from the mailing date of the suspension notice unless a hearing is requested;

(b) The suspension is subject to an increase in the length of the suspension period under ORS 813.430;

(c) DMV must receive a hearing request within 15 days of the mailing date of the suspension notice or the hearing is waived; and

(d) The Office of Administrative Hearings will conduct the hearing pursuant to ORS 813.410 and issue a final order. The suspension will not go into effect pending the outcome of the hearing.

(e) Notwithstanding subsection (d), the time limitations in ORS 813.410(1), (2), (3) and (4) do not apply to a suspension order issued under this section.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 813.410 & 813.460

Hist.: MV 25-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0070; MV 4-1993, f. & cert. ef. 7-16-93; DMV 12-1995, f. & cert. ef. 12-14-95; DMV 23-2004, f. & cert. ef. 11-17-04

735-070-0076

DUII Diversion Agreements — Definitions "Commenced Participating In" and "Presently Participating In" and Removal from Driving Records

(1) When record of a driving while under the influence of intoxicants (DUII) diversion agreement is submitted to DMV under ORS 813.230 and is included on a person's driving record, for purposes of ORS 813.430, the following definitions apply:

(a) "Commenced participating in" means the date the order allowing diversion is signed by the judge, or the beginning date of any similar alcohol or drug rehabilitation program as evidenced by a state authorized agreement; and

(b) "Presently participating in" means the period of time between the date the order allowing diversion is signed by the judge, or the beginning date of any similar alcohol or drug rehabilitation program as evidenced by state authorized agreement and the ending date of the diversion agreement.

(2) DMV shall vacate a DUII diversion agreement from a driving record upon receipt of an order to vacate the diversion agreement from the court which allowed the diversion agreement.

Stat. Auth.: ORS 814.616 & 184.619

Stats. Implemented: ORS 802.200, 813.230, 813.430 & 813.520

Hist.: DMV 10-1997, f. & cert. ef. 10-16-97

735-070-0080

Ignition Interlock Device (IID) as Requirement Following DUII Suspension

(1) A person convicted by an Oregon Court of Driving Under the Influence of Intoxicants (DUII) must install and use an IID for the period of time specified in ORS 813.602(1) or (2).

(2) DMV will suspend driving privileges for the period of time specified in Section 8, Chapter 577, Oregon Laws 2015 for failure to install an IID if proof that an approved IID has been installed in the person's vehicle is not submitted to DMV by the ending date of the DUII suspension. The proof must be an installation report form showing an approved device, as described in OAR 735-118-0010.

(3) A person may operate a vehicle(s) without an IID, if the person is medically unable to operate a vehicle equipped with an IID, and DMV grants a medical exemption from the IID requirement. To avoid suspension of driving privileges for failure to install an IID, the person must apply before the last day of the DUII suspension and submit to DMV:

(a) A written, signed statement from an IID provider that the provider is unable to adapt an IID to accommodate usage by the person because of the person's medical condition; and

(b) A written, signed statement from the person's medical doctor, doctor of osteopathy, naturopathic doctor, physician assistant or nurse practitioner containing the following information:

(A) The name of the exempting condition;

(B) Whether the condition is temporary or permanent and if temporary, when the condition will no longer prevent usage of an IID; and

(C) Whether the exemption is required because the condition results in the inability to sustain an exhaled breath sampling of five pounds of pressure for five seconds required to operate the device or results in a ketone level in the person's breath which will not allow the driver to successfully complete the test.

(4) When the application for a medical exemption is made under section (3) of this rule and approved by DMV, DMV will issue a medical exemption letter. The person must carry a copy of DMV's medical exemption letter while operating a vehicle that would otherwise require installation and use of an IID.

(5) DMV will reinstate driving privileges if during the suspension period for failure to install an IID, the person installs an IID or DMV grants the person a medical exemption.

(6) DMV will terminate the IID requirement at the end of the requirement described in ORS 813.602 if DMV has granted the person a medical exemption and the physician report indicates the medical condition or impairment is permanent.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 813.602

Stats. Implemented: ORS 813.602

Hist.: MV 39-1987, f. 12-11-87, cert. ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-031-0078; MV 20-1988, f. & cert. ef. 6-1-88; MV 14-1989, f. & cert. ef. 5-17-89; MV 18-1989(Temp), f. 8-31-89, cert. ef. 9-5-89; MV 4-1990, f. & cert. ef. 3-2-90; DMV 5-1994, f. & cert. ef. 7-21-94; DMV 15-2001, f. & cert. ef. 9-21-01; DMV 12-2007, f. 11-30-07, cert. ef. 1-1-08; DMV 8-2013, f. & cert. ef. 5-23-13; DMV 12-2015, f. 12-17-15, cert. ef. 1-1-16

735-070-0082

Medical Exemption from IID Requirement

(1) A person may qualify for a medical exemption from the ignition interlock device (IID) requirement under ORS 813.602(1) and (2) if the person provides satisfactory evidence to DMV that due to a medical condition or impairment the person is unable to operate an IID or unable to safely operate a motor vehicle equipped with an IID. The following definitions apply:

(a) A "health care provider" is a person licensed, certified or otherwise authorized or permitted by law to administer health care in the State of Oregon. For purposes of these rules, the term health care provider is limited to: a chiropractic physician, nurse practitioner, and physician assistant.

(b) A "primary care provider" is a physician or health care provider who is responsible for supervising, coordinating and providing a person's initial and ongoing health care.

(c) "Unable to safely operate a motor vehicle equipped with an IID" means the person's medical condition or functional impairment prevents the person from safely operating a motor vehicle when requested to perform an IID rolling retest while operating a motor vehicle equipped with an IID.

(2) To apply for a medical exemption a person must submit a completed IID Medical Exemption form (DMV form 735-6941). The form must be completed by both the person and the person's primary care provider or the physician or health care provider providing specialized treatment to the person for the particular medical condition or functional impairment that prevents the person from operating an IID or prevents the person from safely operating a motor vehicle equipped with an IID.

(3) The person must fully complete the information in Section 1 of the IID Medical Exemption form, including:

(a) The reason(s) the person is required to install an IID; and

(b) An explanation of why the person believes he or she has a medical condition or functional impairment that prevents the operation of an IID or prevents safe operation of a vehicle equipped with an IID.

(4) Section 2 of the IID Medical Exemption form must be completed by the person's primary care provider, or a physician or health care provider providing specialized treatment to the person for a medical condition or functional impairment that prevents the person from operating an IID or prevents the person from safely operating a motor vehicle equipped with an IID. The physician or health care provider must determine that in his or her professional opinion the person is unable to operate an IID or is unable to safely operate a vehicle equipped with an IID because of the person's medical condition or functional impairment, including but not limited to a determination that:

(a) The person has a medical condition or functional impairment that does not allow the person to provide the necessary alveolar air or deep lung air sample to properly operate the device; or

(b) The person consistently has a ketone level in his or her breath which creates a false positive reading of over .020 blood alcohol concentration even though the person has had no alcohol.

(5) If the determination of the physician or health care provider described in section (4) of this rule is not based on subsection (a) or (b), the physician or health care provider must provide a detailed description of why the medical condition or functional impairment prevents the person from operating an IID or prevents the person from safely operating a motor vehicle equipped with an IID.

(6) In completing Section 2 of the IID Medical Exemption form, the physician or health care provider must:

(a) Specify the medical condition or functional impairment that prevents the person from operating an IID or prevents the person from safely operating a vehicle equipped with an IID;

(b) State whether the medical condition or functional impairment is permanent or temporary, and if temporary, the projected length of time; and

(c) Specify why the medical condition or functional impairment prevents the person from operating an IID or prevents the person from safely operating a motor vehicle equipped with an IID.

(7) From the information provided on the IID Medical Exemption form, DMV will determine if the person qualifies for a medical exemption. If DMV determines from the information on the form that the person qualifies, DMV will issue a medical exemption. If DMV is unable to determine from the information provided that the person qualifies, DMV will deny the medical exemption.

(8) If the person's medical condition or functional impairment is temporary, DMV will issue a temporary IID medical exemption that expires on the date specified in Section 2 of the IID Medical Exemption form, or a date six months from the date of issuance if no date is provided. If the temporary condition or functional impairment continues beyond the expiration date of the temporary IID medical exemption, the person may submit a signed statement from the physician or health care provider who completed the Request for IID Medical Exemption form describing the person's continuing need for a medical exemption, or the person may submit a new application as set forth in sections (2) through (4) of this rule. From the information submitted DMV will determine if the person continues to qualify for a temporary IID medical exemption.

(9) Before granting or denying an IID medical exemption, DMV may require the person to provide additional information from a physician or health care provider or to obtain a statement from an IID provider that the device cannot be adjusted to accommodate the person's medical condition or functional impairment.

(10) A person who is granted an IID medical exemption by DMV will be issued a medical exemption letter. The person must carry the IID medical exemption letter issued by DMV when driving.

(11) A person who must install and use an IID as a condition of a DUII diversion agreement must obtain an IID medical exemption from the court. The person must submit a completed IID Medical Exemption form directly to the court that approved the DUII diversion agreement. The court must approve or deny the IID medical exemption request. DMV will not forward an IID Medical Exemption form to a court if it is submitted to DMV in error.

(12) A person may need both an IID medical exemption letter issued by DMV and an IID medical exemption approval issued by a court. An IID medical exemption letter issued by DMV is not valid if the person is required to install an IID as a condition of a DUII diversion. A medical exemption issued by a court is not valid if the requirement to install and use an IID is required for any reason other than a DUII diversion agreement. Both an IID medical exemption letter issued by DMV and IID medical exemption approval issued by a court must be carried by the person when driving.

(13) DMV may use a court-issued IID medical exemption letter to terminate an IID requirement at the end of the diversion agreement if there is no indication of either:

(a) The exemption granted by the court being temporary; or

(b) Prior to the end of the diversion agreement the person was required to install an ignition interlock device.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 813.602
Stats. Implemented: ORS 813.602
Hist.: DMV 21-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 12-2015, f. 12-17-15, cert. ef. 1-1-16

735-070-0085
Proof of Treatment Completion Required for Reinstatement of DUII Suspension

(1) Except as provided in section (3) of this rule, a person whose driving privileges are suspended due to a conviction in an Oregon court of driving under the influence of intoxicants (DUII) must provide as proof that the person completed a treatment program to which the person was referred under ORS 813.021, a DUII Treatment Completion Certificate (Certificate), DMV Form 735-6821. The Certificate must be completed by an authorized representative of an Oregon DUII treatment program approved by the Director of the Oregon Health Authority (OHA) or by an authorized representative of OHA on behalf of an Oregon DUII treatment provider or an out-of-state DUII treatment provider.

(2) If the person has more than one suspension of driving privileges resulting from DUII convictions, the Certificate required under section (1) of this rule is sufficient for reinstatement of all DUII suspensions with arrest dates that were before the date treatment was completed. For purposes of this section, the Certificate must show the date treatment was completed.

(3) If the person does not provide the proof described in section (1) of this rule, DMV will not reinstate driving privileges following a suspension for DUII unless:

(a) The person submits an order from the circuit court of the county in which the person was convicted showing that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program;

(b) It has been 15 years or more since the person's last DUII conviction in an Oregon court; or

(c) The suspension of driving privileges resulted from a conviction in another jurisdiction for the statutory counterpart to ORS 813.010 (DUII).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.380, 2012 OL Ch. 9 & 2013 OL Ch. 233
Stats. Implemented: 2012 OL Ch. 9 & 2013 OL Ch. 233
Hist.: DMV 5-1994, f. & cert. ef. 7-21-94; DMV 4-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMV 10-2012, f. & cert. ef. 7-19-12; DMV 10-2013(Temp), f. & cert. ef. 6-21-13 thru 12-17-13; DMV 16-2013, f. & cert. ef. 11-25-13

735-070-0090
Violation of License Restriction

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall send an advisory letter to a person upon receipt of a first conviction for violation of license restriction unless license suspension is required under section (2) of this rule:

(a) The letter shall advise the person that a second conviction for violation of license restriction within a five-year period will result in suspension of driving privileges;

(b) The letter shall advise the person of the procedure for removing the restriction from the license providing the restriction no longer applies to the person;

(c) The letter shall be sent to the person by first class mail to DMV's address of record; and

(d) Failure to receive the letter shall not prevent suspension when there is a second or subsequent conviction within a five-year period.

(2) DMV shall suspend the person's driving privilege:

(a) Upon receipt of a second or subsequent conviction for violation of license restriction within a five-year period; or

(b) Upon receipt of any conviction for violation of license restriction, when the restriction violated was a requirement of the driver improvement program or provisional license driver improvement program. Suspension action shall be taken even if the conviction is received by DMV after the end of the restriction period.

(3) All of the following apply to the suspension under section (2) of this rule:

(a) The suspension notice issued shall include information advising the person of the procedure for removing the restriction from the license providing the restriction no longer applies to the person; and

(b) The suspension shall be for 30 days.

(4) The following exceptions apply to this rule:

(a) An advisory letter under section (1) of this rule shall not be sent if the restriction no longer applies and has been removed from the person's driver license before the advisory letter can be produced and mailed;

(b) A suspension notice under subsection (2)(a) of this rule shall not be sent if the restriction no longer applies and the restriction has been removed from the person's driver license before the suspension notice can be produced and mailed; and

(c) This rule does not apply to violation of hardship permit or probationary permit restrictions.

Stat. Auth.: ORS 184.616, 809.410 & 809.480
Stats. Implemented: ORS 807.120, 809.410 & 809.480
Hist.: MV 6-1988, f. 2-16-88, cert. ef. 2-17-88; Administrative Renumbering 3-1988, Renumbered from 735-031-0051; DMV 7-1994, f. 8-19-94, cert. ef. 9-1-94

735-070-0110
Hearing Requests Under the Administrative Procedures Act

(1) This rule establishes the hearing request requirements for DMV suspension, revocation and cancellation hearings conducted pursuant to the Administrative Procedures Act, ORS 183.413 to 183.500. This rule does not apply to a hearing request for:

(a) An implied consent hearing under ORS 813.132, 813.410 or 813.460;

(b) An administrative review under ORS 809.440(2); and

(c) A post-imposition hearing under ORS 809.440(4).

(2) A hearing request must be in writing and must:

(a) Include the person's full name;

(b) Separately identify each action being contested if a hearing is being requested for more than one suspension, revocation or cancellation action;

(c) Be postmarked within 20 days of the date of the notice. If the hearing request is not postmarked or a postmark date cannot be determined, it must be received by the Driver and Motor Vehicle Services Division of ODOT (DMV) within 20 days of the date of the notice; and

(d) Be mailed or personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314 or if sent by facsimile machine (FAX), received by DMV at FAX number (503) 945-5521.

(3) A Hearing request should also include the person's: address, driver license, permit, identification or customer number; date of birth; and telephone number with area code.

(4) Except as provided in OAR 137-003-0528, the person's right to a hearing is waived if a hearing is not requested within the time period specified in section (2) of this rule and the notice becomes the final order by default. The time period for requesting a hearing will be computed as set forth is OAR 137-003-0520(11).

Stat. Auth: ORS 183.415, 184.616, 184.619, 802.010 & 809.440
Stats. Implemented.: ORS 809.440
Hist.: MV 29-1988, f. & cert. ef. 12-16-88; MV 13-1990, f. & cert. ef. 7-16-90; MV 5-1992, f. & cert. ef. 4-16-92; DMV 12-1995, f. & cert. ef. 12-14-95; DMV 23-2004, f. & cert. ef. 11-17-04

735-070-0130
Fatal Accident Suspension

(1) DMV will use the following definitions when determining whether to issue a suspension order under ORS 809.417(3):

(a) "Criminal negligence" is as defined in ORS 161.085(10) which states "that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation."

(b) "Incompetence" means driving in a manner that indicates lack of ability or fitness to safely operate a motor vehicle.

(c) "Recklessness" is as defined in ORS 161.085(9), which states "that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation."

(d) "Unlawful operation" means driving in a manner that would constitute commission of a traffic offense as defined by ORS 801.555 and includes any traffic offense under any federal law or any law of another state, including subdivisions thereof, that substantially conforms to a traffic offense as defined by Oregon statute.

(2) A suspension under ORS 809.417(3) will be for a period of one year.

Stat. Auth.: ORS 184.616, 184.619 & 809.417
Stats. Implemented: ORS 809.417
Hist.: MV 13-1989, f. & cert. ef. 3-20-89; DMV 6-1997, f. & cert. ef. 7-15-97; Administrative Correction 8-12-97; DMV 22-2003, f. 12-15-03 cert. ef. 1-1-04

735-070-0160
Restoration of Driving Privileges for Habitual Offenders

(1) A person, revoked as a habitual offender, may apply for restoration of driving privileges five years after the revocation date. For purposes of the habitual offender statutes and administrative rules, compliance with reinstatement requirements will be considered as application for restoration of driving privileges.

(2) To comply with reinstatement requirements, the person must:

(a) Meet all requirements for full reinstatement on any other suspension, revocation, cancellation or non-issue action(s) also in effect;

(b) Successfully complete requirements established for an original driver license in ORS 807.040 or an instruction driver permit in ORS 807.280, including the payment of fees established in ORS 807.370; and

(c) Pay the reinstatement fee established in ORS 807.370.

(3) A person residing out-of-state must comply with subsections (2)(a) and (2)(c) of this rule and in lieu of subsection (2)(b) of this rule, a person residing out-of-state may:

(a) Take the tests for an original driver license or instruction driver permit at the motor vehicle agency in the state or province where the person resides and provide documentation showing the successful completion of those tests; or

(b) Surrender all driving privileges in Oregon as described in OAR 735-062-0135.

(4) The revocation will remain in effect until the person meets the reinstatement requirements in section (2) or (3) of this rule, even if five years have elapsed since the revocation took effect.

Stat. Auth.: ORS 184.616, 184.619 & 809.660
Stats. Implemented: ORS 809.390, 809.650 & 809.660
Hist.: MV 7-1993, f. & cert. ef. 10-21-93; DMV 11-1997, f. & cert. ef. 10-16-97; DMV 18-2010, f. & cert. ef. 9-27-10

735-070-0170
Hearing Regarding Civil Penalty for Violation of an Out-of-Service Order or Notification of Violation

When a civil penalty is imposed under Sec. 14, Ch. 395, Oregon Laws 2009, the person has a right to a contested case hearing in accordance with ORS 183.745. However, the amount of the civil penalty is not an issue at the hearing, and the administrative law judge presiding at the contested case hearing may not adjust the amount of the civil penalty.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: Sec. 14 Ch. 395 OL 2009
Hist.: MV 13-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 17-2008, f. & cert. ef. 7-23-08; DMV 24-2009, f. 12-22-09, cert. ef. 1-1-10

735-070-0185 [Renumbered to **735-063-0320**]

735-070-0190 [Renumbered to **735-063-0330**]

735-070-0200 [Renumbered to **735-063-0180**]

DIVISION 72

DRIVER IMPROVEMENT

735-072-0000
Application of the Driver Improvement Program

(1) All drivers in this state are subject to the provisions of one of the Driver Improvement Programs established by this division.

(2) The provisional driver improvement program applies to drivers who have reached 14 years of age but who have not yet reached 18 years of age.

(3) The adult driver improvement program applies to drivers 18 years of age or older.

Stat. Auth.: ORS 184.616, 184.619 & 809.480
Stats. Implemented: ORS 809.480
Hist.: MV 24-1985, f. 12-31-85, ef. 1-1-86; MV 23-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0300; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94; DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02

735-072-0010
Purpose of the Driver Improvement Program

This division establishes the Driver Improvement Programs as authorized by ORS 809.480. Both the Provisional and Adult Driver Improvement Programs have as their goal the reduction of traffic convictions and especially accidents.

Stat. Auth.: ORS 184.616, 184.619 & 809.480
Stats. Implemented: ORS 809.480
Hist.: MV 24-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0305; DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02

735-072-0020
Driver Improvement Program Definitions

The following definitions apply to rules for both Driver Improvement Programs:

(1) "Adult Driver" is a driver 18 years of age or older.

(2) "Combination" means one or more driver improvement violations and one or more preventable accidents. For purposes of these rules, a driver improvement violation and a preventable accident arising from a single incident is not a combination.

(3) "Conviction" means a determination of guilt by a court of law upon a plea, verdict, finding, or unvacated bail forfeiture. For purposes of section (6) of this rule if a person is convicted of more than one offense arising from a single traffic stop or preventable accident, the convictions for separate offenses constitute one conviction and are a driver improvement violation if at least one of the convictions is for an offense listed in OAR 735-064-0220.

(4) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(5) "Driver Improvement Violation" means:

(a) One conviction for an offense listed in OAR 735-064-0220; or

(b) Five convictions for an offense listed in OAR 735-072-0035.

(6) "License" has the meaning specified in ORS 801.245.

(7) "Preventable Accident" is a traffic accident reported by a police officer that indicates a driver failed to do everything a driver reasonably could have done to prevent the accident. Factors used to determine preventability include but are not limited to:

(a) Violations of the law even if a citation is not issued;

(b) Failure to use defensive driving techniques;

(c) Road conditions existing at the time of the accident; or

(d) Speed of the driver's vehicle.

(8) "Provisional Driver" means a driver who has reached 14 years of age but has not yet reached 18 years of age.

(9) "Record Review Date" means:

(a) The date DMV records a driver improvement violation or preventable accident to a person's driving record; or

(b) The date DMV grants driving privileges or fully reinstates the driving privileges following a suspension or revocation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.480
Stats. Implemented: ORS 809.480
Hist.: MV 24-1985, f. 12-31-85, ef. 1-1-86; MV 23-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0310; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94; DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 2-2011, f. & cert. ef. 3-2-11; DMV 3-2013, f. 4-22-13, cert. ef. 5-1-13

735-072-0023
Provisional Driver Improvement Program

(1) Drivers who have reached 14 years of age but who have not yet reached 18 years of age are subject to the Provisional Driver Improvement Program. The Provisional Driver Improvement Program is designed to have a quick and immediate impact on young drivers who are convicted of traffic offenses or involved in preventable accidents. This rule applies to driver improvement violations and preventable accidents that occur when the driver is 14, 15, 16 or 17 years of age, and whose record review date occurs before the person has reached 18 years of age.

(2) On the record review date, DMV will review the person's driving record and restrict the driving privileges of any provisional driver who has:

(a) Two driver improvement violations; or

(b) Two preventable accidents; or

(c) A combination of one driver improvement violation and one preventable accident.

(3) The following apply to provisional restrictions:

(a) DMV will restrict the license or instruction permit of a provisional driver to drive only to and from or for employment, with no passengers except their parent, stepparent or guardian;

(b) DMV will impose the restriction for a period of 90 days or until the driver becomes 18 years of age. DMV will notify the provisional driver by letter that the restriction will begin five days from the date of the letter. During the 90-day restriction period, the provisional driver must carry the restriction letter at all times while the person is driving a motor vehicle;

(c) A person who violates the Provisional Driver Improvement Program restriction, can be cited under ORS 807.010, operating in violation of license restrictions, which is a Class B traffic violation; and

(d) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any provisional driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a provisional driver license or instruction permit;

(C) Unless that provisional driver gets another driver improvement violation or preventable accident while under the age of 18. In that case, DMV will suspend the driving privileges or right to apply for driving privileges as set forth in subsection (6) of this rule. This suspension will supersede the pending restriction and the pending restriction code will be removed from the person's driving record.

(4) Upon submission of a designated application form from the provisional driver, DMV may re-evaluate the restriction imposed under section (3) of this rule and may amend the restriction. On the form, the provisional driver must set forth the reason why an amended restriction is needed. The provisional driver must also provide proof he or she has completed an action approved by DMV that is designed to reduce the likelihood of future traffic violations and accidents.

(5) DMV will suspend for six months the driving privileges or right to apply for driving privileges of any provisional driver who has:

(a) Three driver improvement violations;

(b) Three preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total three.

(6) For each subsequent driver improvement violation or preventable accident, DMV will suspend for six months the driving privileges or right to apply for driving privileges of a provisional driver, regardless of a previous or current Driver Improvement Program suspension(s), who has:

(a) Four or more driver improvement violations;

(b) Four or more preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total four or more.

(7) DMV will suspend for one year the driving privileges or the right to apply for driving privileges of a provisional driver convicted of any offense listed in ORS 809.600(1). This suspension is for Provisional Driver Improvement Program purposes and is in addition to any suspension or revocation imposed because of the specific conviction.

(8) The suspension period for those suspensions imposed under sections (5), (6) and (7) of this rule will be imposed for the full suspension period, regardless of whether the provisional driver becomes 18 years of age during the suspension period. A suspension of driving privileges or the right to apply for driving privileges under this rule shall run concurrently with any other suspension, revocation, or cancellation in effect at the time the suspension begins. This section is applicable to suspensions imposed on or after June 30, 2002.

Stat. Auth.: ORS 184.616, 184.619 & 809.480
Stats. Implemented: ORS 809.480
Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 7-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-10-03; DMV 13-2003, f. & cert. ef. 9-22-03; DMV 19-2004, f. & cert. ef. 8-20-04; DMV 3-2013, f. 4-22-13, cert. ef. 5-1-13

735-072-0027
Adult Driver Improvement Program

(1) A driver whose record review date is on or after the person has reached 18 years of age is subject to the Adult Driver Improvement Program. DMV will look back from the record review date to the incident date that resulted in a conviction or the date of a preventable accident to determine if a person is subject to the Adult Driver Improvement Program.

(2) DMV will restrict the license or instruction permit of an adult driver who within the 18-month period immediately prior to the record review date has:

(a) Three driver improvement violations;

(b) Three preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total three.

(3) The following apply to adult restrictions:

(a) DMV will restrict the license or instruction permit of an adult driver to no driving between the hours of 12 midnight and 5 a.m., unless driving between home and work or driving for purposes of employment;

(b) DMV will impose the restriction for a period of 30 days. DMV will notify the adult driver by letter that the restriction will begin 30 days from the date of the letter. During the restriction period, the adult driver must carry the restriction letter at all times the person is driving a motor vehicle; and

(c) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any adult driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a driver license or instruction permit;

(C) Unless that adult driver gets another driver improvement violation or preventable accident that would total four driver improvement violations or preventable accidents in a 24-month period prior to the record review date. In that case, DMV will suspend the driving privileges or right to apply for driving privileges. This suspension will supercede the pending restriction and the pending restriction code will be removed from the person's driving record.

(d) DMV will not impose a pending restriction to the driving privileges of an adult driver if:

(A) Five years have elapsed from the date the pending restriction was imposed; and

(B) The adult driver has no record of a driver improvement violation or preventable accident occurring in the last 18 months prior to the granting of driving privileges or full reinstatement of driving privileges.

(4) DMV will suspend the driving privileges or right to apply for driving privileges of an adult driver who within the 24-month period immediately prior to the record review date has:

(a) Four driver improvement violations;

(b) Four preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total four.

(5) For each subsequent driver improvement violation or preventable accident, DMV will suspend the driving privileges or right to apply for driving privileges of an adult driver, regardless of a previous or current Driver Improvement Program suspension(s), who within the 24-month period immediately prior to the record review date has:

(a) Four or more driver improvement violations;

(b) Four or more preventable accidents;

(c) A combination of driver improvement violations and preventable accidents that total four or more.

(6) The suspension period under sections (3), (4) and (5) of this rule will be for 30 days. The suspension will run concurrently with any other suspension, revocations, or cancellations in effect at the time the suspension begins.

Stat. Auth.: ORS 184.616, 184.619 & 809.480
Stats. Implemented: ORS 809.480
Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 19-2004, f. & cert. ef. 8-20-04

735-072-0035
Driver Improvement Offenses

(1) The conviction for an offense listed below counts toward both the Provisional and Adult Driver Improvement Programs. It takes five convictions from the following list to equal one driver improvement violation. All other convictions counting in the Driver Improvement Programs are outlined in OAR 735-064-0220.

(2) Offenses from other states are posted to driver records using an AAMVAnet Code Dictionary (ACD) code. This section identifies the code that appears on the driver record, a description of the offense and the ORS or administrative rule reference to the equivalent offense(s) in Oregon. The offenses listed below also count towards both the Provisional and Adult Driver Improvement Programs as described in section (1) of this rule.

[ED. NOTE: Lists referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.480
Stats. Implemented: ORS 809.480
Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 19-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 28-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 18-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 23-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

735-072-0050
Rights to a Hearing or Administrative Review

Hearing and administrative review procedures for suspensions under OAR 735-072-0023 and 735-072-0027 are as established by ORS 809.440(1), (2) and (5).

(1) A person whose suspension is based solely on conviction records received from a court is entitled to an administrative review.

(2) A person whose suspension is based, in any part, on a report of a preventable accident is entitled to a contested case hearing.

(3) It shall be a defense to a suspension under OAR 735-072-0023 and 735-072-0027 if the person can establish that all of the convictions on which the department's suspension action is based occurred when the person had valid driving privileges issued by another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619 & 809.480
Stats Implemented: ORS 809.480
Hist.: MV 24-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0325; MV 19-1991, f. & cert. ef. 9-18-91; DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 2-2011, f. & cert. ef. 3-2-11

DIVISION 74

AT-RISK DRIVER PROGRAM — MANDATORY REPORT FOR MEDCIAL PROFESSIONALS

735-074-0050
Policy and Objective

(1) It is the policy of DMV to promote safety for all persons who travel or otherwise use the public highways of this state.

(2) The underlying policy of the Department's rules on medically at-risk drivers is to preserve the independence, dignity, and self-esteem that result from providing one's own mobility, so long as it is possible to do so without risk to oneself or to others.

(3) It is therefore an objective of these rules to establish a program for the mandatory reporting to DMV of those drivers who have functional and cognitive impairments that may affect the person's driving ability.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-074-0060
Purpose

(1) DMV recognizes that some persons have, or may develop, cognitive or functional impairments that affect driving ability. DMV acknowledges that the purpose of division 74 rules is to prevent injury or death by establishing requirements for the mandatory reporting by physicians and health care providers of those persons with severe and uncontrollable cognitive or functional impairments affecting a person's ability to safely operate a motor vehicle.

(2) Division 74 rules designate:

(a) Those physicians and health care providers required to report and the cognitive or functional impairments that must be reported to DMV under ORS 807.710;

(b) The procedures for making a mandatory report to DMV; and

(c) The procedures followed by DMV when it receives a report.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-074-0070
Authority to Obtain Medical Information and DMV Use of Medical Information

(1) DMV is authorized by law, ORS 807.710, to receive protected health information from covered health entities for the purpose of preventing injury which may be caused by drivers who are unable to safely operate a motor vehicle because of severe and uncontrollable cognitive or functional impairments. DMV is the state agency responsible for public health matters relating to the monitoring of drivers who may be ineligible for driving privileges because of a mental or physical disease or disability resulting in a cognitive or functional impairment that affects the driver's ability to safely operate a motor vehicle.

(2) DMV will use the medical information provided by physicians and health care providers only to determine whether or not a person can safely operate a motor vehicle and is qualified for driving privileges, and for taking any action deemed necessary by DMV. The protected health information required to be reported by these rules is the minimum necessary to accomplish the purposes of ORS 807.060, 807.090, 807.350, 807.710 and 809.410.

Stat. Auth.: ORS 184.616, 184.619 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

735-074-0080
Definitions

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) A "health care provider" is a person licensed, certified or otherwise authorized or permitted by law to administer health care in the State of Oregon. For purposes of these rules, the term health care provider is limited to: a chiropractic physician, nurse practitioner, occupational therapist, physical therapist, optometrist, physician assistant and podiatric physician or surgeon.

(3) "Immediate suspension or cancellation" means the suspension or cancellation of driving privileges or the right to apply for driving privileges before the person is given an opportunity for a hearing to contest the suspension or cancellation.

(4) "Mandatory reporting or a mandatory report" is a report of severe and uncontrollable cognitive or functional impairments, submitted by a physician or designated health care provider as mandated under ORS 807.710 and these rules. DMV also has a non-mandatory reporting program that can be used by anyone, including physicians and health care providers, that reports medical issues or driving behaviors that may affect the person's ability to

safely operate a motor vehicle. The non-mandatory reporting program is outlined in OAR chapter 735, division 76.

(5) "Medical Determination Officer" is a physician, nurse practitioner or physician assistant, licensed to provide health care services by the State of Oregon, and employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.

(6) A "medical report form" is the form provided to a person or designated by DMV to be used to obtain medical information for determining if the person is eligible or qualified for driving privileges.

(7) A "physician" is a medical doctor or doctor of osteopathic medicine licensed to practice medicine in the State of Oregon by the Board of Medical Examiners or a doctor of naturopathic medicine licensed to practice naturopathic medicine in the State of Oregon by the Board of Naturopathic Examiners.

(8) A "primary care provider" is a physician or health care provider who is responsible for supervising, coordinating and providing a person's initial and ongoing health care. A primary care provider initiates referrals for health care outside of his or her scope of practice, consultations and specialist care to assure continuity of a person's medically appropriate health care.

(9) "Primary and secondary driving controls" mean the steering wheel, gas pedal, brake, clutch (if applicable), turn signal controls, headlight controls, windshield wiper controls, defrost control and horn of a motor vehicle.

(10) "Recertification" or "recertify" is the process for requiring the person to reestablish eligibility at periodic intervals by submitting updated medical or vision information and possibly proving that the mental or physical condition or impairment does not affect their ability to safely operate a motor vehicle by passing DMV tests, receiving a determination of eligibility from the Medical Determination Officer, or both.

(11) "Severe" means that the impairment substantially limits a person's ability to perform activities of daily living, including driving, because it is not controlled or compensated for by medication, therapy, surgery or adaptive devices. Severe does not include a temporary impairment for which the person is being treated by a physician or health care provider and which is not expected to last more than six months.

(12) "Uncontrollable" means the impairment persists despite efforts to control or compensate for it by medication, therapy, surgery, or adaptive devices. Uncontrollable does not include an impairment for which treatment by medication, therapy, surgery or adaptive devices is currently under evaluation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 12-2013, f. & cert. ef. 9-24-13

735-074-0090
Physicians and Health Care Providers Required to Report to DMV

(1) If providing health care services to a person meeting the criteria set forth in OAR 735-074-0100 or 735-074-0110, the following physicians and health care providers must submit a report to DMV as described in 735-074-0120:

(a) The person's primary care provider.

(b) A physician or health care provider providing emergency health care services to a person who does not have a primary care provider.

(c) A physician, physician assistant or nurse practitioner providing ongoing specialist health care services for a cognitive or functional impairment meeting the criteria set forth in OAR 735-074-0110.

(2) A physician, physician assistant, or nurse practitioner providing a specialist evaluation or a health care provider providing health care services based on a referral from the person's primary care provider, and the health care services relate to a cognitive or functional impairment meeting the criteria set forth in OAR 735-074-0110 must:

(a) Submit a report to DMV; or

(b) Provide the findings, test results and/or treatment report to the referring provider. Upon receipt of findings, test results and/or a treatment report, the referring provider must submit a report to DMV if the cognitive or functional impairment meets the criteria set forth in OAR 735-074-0110.

(3) An ophthalmologist or optometrist providing health care services to a person who does not meet the DMV vision standards set forth in OAR 735-062-0050 with corrective lenses or devices must:

(a) Submit a report to DMV; or

(b) Provide the findings or test results to the person's primary care provider. Upon receipt of findings from the ophthalmologist or optometrist, the primary care provider must submit a report to DMV.

(4) Notwithstanding section (1) of this rule, a physician or health care provider providing health care services to a person meeting the criteria set forth in OAR 735-074-0100 and 735-074-0110, is not required to submit a report to DMV if the person is incapacitated and not expected to regain the ability to drive.

Stat. Auth.: ORS 184.616, 184.619 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 12-2013, f. & cert. ef. 9-24-13

735-074-0100
Report of Visual Acuity or Field of Vision not Meeting DMV Standards

(1) A physician or health care provider must submit a report to DMV if providing health care services to a person whose vision does not meet the standards established in OAR 735-062-0050(2).

(2) Notwithstanding section (1) of this rule, a report is not required if by use of corrective lenses the person's vision meets DMV vision standards under OAR 735-062-0050 and a use of corrective lenses restriction is on the person's driver license. For purposes of this rule, corrective lenses do not include bioptic or telescopic lenses.

Stat. Auth.: ORS 184.616, 184.619 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

735-074-0110
Severe and Uncontrollable Impairments that must be Reported to DMV

As required by OAR 735-074-0090, a physician or health care provider must submit a report, as described in 735-074-0120, to DMV when providing health care services to a person, 14 years of age or older, and who has one or more of the following cognitive or functional impairments which is severe and uncontrollable:

(1) Functional impairments include **sensory impairments** affecting peripheral sensation of extremities, including but not limited to: tingling and numbness and loss of position sense in extremities affecting the ability to feel, grasp, manipulate or release objects or use foot controls effectively.

(2) Functional impairments include **motor impairments** affecting the following areas:

(a) **Strength**, including but not limited to:

(A) The inability to consistently maintain a firm grip on objects;

(B) The inability to apply consistent pressure to objects with legs and feet;

(C) Weakness or paralysis of muscles affecting the ability to maintain sitting balance; or

(D) Weakness or paralysis in extremities affecting the ability to feel, grasp, manipulate or release objects or use foot controls effectively.

(b) **Flexibility**, including but not limited to: rigidity or limited range of mobility in neck, torso, arms, legs or joints.

(c) **Motor planning and coordination**, including but not limited to:

(A) Difficulty and slowness in initiating movement;

(B) Vertigo, dizziness, loss of balance or other motor planning conditions;

(C) Involuntary muscle movements; or

(D) Loss of muscle control.

(3) **Cognitive impairments** affecting the following areas:

(a) **Attention**, including but not limited to:

(A) Decreased awareness;

(B) Reduction in the ability to efficiently switch attention between multiple objects; or

(C) Reduced processing speed.

(b) **Judgment and problem solving**, including but not limited to:

(A) Reduced processing speed;

(B) An inability to understand a cause and effect relationship; or

(C) A deficit in decision making ability.

(c) **Reaction time**, including but not limited to a delayed reaction time.

(d) **Planning and sequencing**, including but not limited to:

(A) A deficit in the ability to anticipate or react to changes in the environment; or

(B) Problems with sequencing activities.

(e) **Impulsivity**, including but not limited to:

(A) Lack of emotional control; or

(B) Lack of decision making skills.

(f) **Visuospatial**, including but not limited to problems determining spatial relationships.

(g) **Memory**, including but not limited to:

(A) Problems with confusion or memory loss; or

(B) A decreased working memory capacity.

(h) **Loss of consciousness or control**.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-074-0120

The Mandatory Report to DMV

(1) To report a functional or cognitive impairment as required by OAR 735-074-0110, the reporting physician or health care provider must complete and submit to DMV, a Mandatory Impairment Referral, DMV Form 7230.

(2) To report visual acuity or field of vision not meeting DMV standards as required by OAR 735-074-0100, the reporting physician or health care provider must complete and submit to DMV, a Mandatory Impairment Referral, DMV Form 7230.

(3) The form must contain the following information:

(a) The name, address, date of birth, sex, and Oregon driver license or identification card number (if known) of the person being reported;

(b) The functional or cognitive impairment(s) being reported, as described in OAR 735-074-0100 or 735-074-0110;

(c) A description of how the person reported is affected by the impairment;

(d) Any underlying medical diagnosis or condition that may be applicable;

(e) If applicable, the date of the person's last episode of loss of consciousness or control, date of cerebrovascular accident (CVA), cardiac event or alcohol/drug/inhalant use or relapse;

(f) If applicable, medication prescribed that may interfere with safe driving behaviors or medication prescribed to treat the impairment(s) reported; and

(g) The name, address, phone number, license or certification number and signature of the reporting physician or health care provider.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-074-0130

Standards for Identifying How Impairments Affect Driving

DMV determines that severe functional or cognitive impairments that are not correctable or controllable by medication, therapy, surgery or adaptive devices adversely affect a person's ability to safely operate a motor vehicle in the following manner:

(1) **Sensory impairments**: Peripheral sensation of extremities causing tingling or numbness in extremities results in:

(a) The inability to firmly grasp, manipulate, operate and release primary and secondary driving controls resulting in momentary loss of control of the vehicle, in improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping, or difficulty stopping the vehicle;

(b) Difficulty gripping the steering wheel resulting in loss of ability to control the vehicle's lane position and turning motion;

(c) Difficulty using foot controls effectively resulting in improper or delayed signal to other drivers that the vehicle is slowing or stopping, or difficulty stopping the vehicle.

(2) **Motor impairments**:

(a) **Strength**:

(A) The inability to consistently maintain a firm grip on objects results in:

(i) Difficulty firmly gripping and turning a steering wheel resulting in loss of ability to safely control the vehicle's lane position and turning motion; and

(ii) A diminished capacity to operate primary and secondary driving controls resulting in reduced control over the vehicle and in improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping, or inability to adjust highbeam headlights when necessary.

(B) The inability to apply consistent pressure to objects with legs or feet results in the inability to apply consistent pressure to the brake and gas pedals, resulting in difficulty or inability to maintain consistent speed or stop the vehicle.

(C) Weakness or paralysis of muscles affecting the ability to maintain sitting balance results in the danger of falling to one side during turns or other sudden motions resulting in the loss of vehicular control.

(D) Weakness or paralysis in extremities affecting the ability to feel, reach, grasp, manipulate or release objects or use foot controls effectively results in the inability to reach, grasp and operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position, turning and a consistent speed.

(b) **Flexibility**: Rigidity and/or limited range of mobility in neck, torso, arms, legs or joints results in:

(A) The inability to reach, grasp and operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position, turning and a consistent speed; and

(B) Difficulty turning the head to check the blind spot prior to a lane change, and to observe vehicles or pedestrians entering the roadway or when merging with traffic.

(c) **Motor planning and coordination**:

(A) Difficulty and slowness in initiating movement results in:

(i) The inability to simultaneously operate primary and secondary controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers;

(ii) Delay in responding to the position of other vehicles that are changing lanes, are in the oncoming lane of traffic or are entering the roadway; and

(iii) Delay in responding to changing traffic control devices or changing traffic conditions.

(B) Vertigo, dizziness, loss of balance or other motor planning conditions results in:

(i) Difficulty maintaining lane position and control of the vehicle; and

(ii) Improper braking and/or accelerating behavior in response to changing traffic conditions.

(C) Involuntary muscle movements results in:

(i) The inability to coordinate the fine motor movements needed to operate primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; failure to, or delay in, use of appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers; and

(ii) The inadvertent activation of the brake or gas pedal resulting in inconsistent speed or improper braking of the vehicle.

(D) Loss of muscle control results in:

(i) Loss of ability to use arms and/or legs in operating primary and secondary driving controls resulting in difficulty controlling, turning or stopping a vehicle; delayed use or failure to use appropriate signals for turning, changing lanes or stopping; or difficulty maintaining lane position or consistent speed, and difficulty performing turning maneuvers; and

(ii) The inability to maintain safe control of a vehicle for prolonged distances.

(3) **Cognitive impairments**:

(a) **Attention**:

(A) Decreased awareness results in:

(i) Distraction or disorientation while driving;

(ii) Difficulty maintaining control of a vehicle for prolonged distances;

(iii) Delay in timely response to traffic control devices or directives;

(iv) Delay in timely response to changes in traffic conditions, traffic hazards and emergencies; and

(v) Delay in observing and responding to the position of other vehicles that are changing lanes, are in the oncoming lane of traffic or entering the roadway.

(B) A reduction in the ability to efficiently switch attention between multiple objects results in:

(i) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(ii) The inability to simultaneously manipulate vehicle controls and watch the roadway.

(C) Reduced processing speed results in:

(i) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies;

(ii) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(iii) Delay in timely response to traffic control devices or directives.

(b) **Judgment and problem solving**:

(A) Reduced processing speed results in:

(i) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies;

(ii) Delay in observing and reacting to road hazards, vehicles changing lanes or vehicles entering the roadway; and

(iii) Delay in timely response to traffic control devices or directives.

(B) An inability to understand the cause and effect relationship results in:

(i) The inability to anticipate the probable outcome in various driving situations resulting in delayed or no response to changes in traffic conditions, traffic hazard and emergencies, vehicles changing lanes, or vehicles, pedestrians or bicycles enter the roadway; and

(ii) Improper or delayed signal to other drivers that the vehicle is turning, changing lanes or stopping.

(C) A deficit in decision-making ability results in:

(i) Delay in timely response to traffic control devices or directives; and

(ii) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(c) **Delayed reaction time** results in:

(A) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway; and

(B) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(d) **Planning and sequencing**:

(A) A deficit in the ability to anticipate and/or react to changes in the environment results in:

(i) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway; and

(ii) Delay in timely response to changes in traffic conditions, and traffic hazards and emergencies.

(B) Problems with sequencing activities results in:

(i) Difficulty planning and safely maneuvering a driving route;

(ii) Frequently becoming lost, confused and unable to find the way from one location to another while driving resulting in panic and sudden, irrational changes in direction or loss of control of the vehicle.

(e) **Impulsivity**:

(A) Lack of emotional control results in inappropriate emotional outbursts that can cause road rage and results in aggressive driving behaviors such as speeding, following too closely, not checking the intersection before entering when a light changes to green and cutting in and out of traffic.

(B) Lack of decision making skills results in:

(i) Delay in timely response to traffic control devices or directives;

(ii) Difficulty planning driving routes resulting in rapid lane changes, or unsignaled or dangerous turns; and

(iii) Delay in observing and reacting to road hazard, vehicles changing lanes or vehicles, pedestrians or bicycles entering the roadway.

(f) **Visuospatial**: Problems determining spatial relationships result in:

(A) Difficulty maintaining lane position, merging with traffic or changing lanes;

(B) Difficulty observing and delay in responding to the position of other vehicles driving on the roadway, the position of roadway curbs, and the position of parked vehicles alongside the roadway; and

(C) Difficulty positioning a vehicle while turning, maneuvering curves or parking.

(g) **Memory**:

(A) Problems with confusion and/or memory loss result in:

(i) Frequently becoming lost, confused and unable to find the way from one location to another while driving resulting in panic and sudden, irrational changes in direction or loss of control of the vehicle;

(ii) Failure or delay in observing and responding to traffic control devices and directives;

(iii) The inability to consistently perform safe driving techniques;

(iv) A lack of attention to other traffic;

(v) Abrupt lane changes without looking for other traffic;

(vi) Turning in front of an oncoming vehicle; and

(vii) Drifting in and out of traffic lane.

(B) A decreased working memory capacity results in:

(i) Frustration and confusion causing abrupt, unplanned or unsignaled turning, lane changes or stopping;

(ii) The necessity for instruction from a passenger on proper driving techniques; and

(iii) Lack of attention to other traffic.

(h) **Loss of consciousness or control** while driving results in loss of vehicle control.

Stat. Auth.: ORS 184.616, 184.619 & 807.710
Stat. Implemented: ORS 807.710
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

735-074-0140
DMV Response to Mandatory Report — Suspension, Opportunity to Re-Test, Reinstatement

(1) DMV will review a report received under OAR 735-074-0120 to determine if sufficient information has been provided. If the report does not contain the information required by OAR 735-074-0120 it may be returned to the reporting physician or health

care provider for completion. If the report does not meet the requirements of a mandatory report, but if the report is of a possible mental or physical condition or impairment that indicates the person is no longer qualified to hold a driver license, driver permit or endorsement or may no longer be able to drive safely, DMV will review the report under the non-mandatory program described in OAR chapter 735, division 76 to determine what action, if any, is appropriate.

(2) Using the standards set forth in OAR 735-074-0130, or when otherwise recommended by the Medical Determination Officer, DMV will suspend driving privileges or the right to apply for driving privileges under ORS 809.419(3), if it is determined from the report submitted under OAR 735-074-0120 that the person has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways. Driving privileges or the right to apply for driving privileges will be immediately suspended if DMV has reason to believe the person may endanger people or property if not immediately suspended.

(3) If DMV receives a report that indicates that a person's vision does not meet the vision standards set forth in OAR 735-062-0050, DMV will immediately suspend the person's driving privileges or right to apply for driving privileges under ORS 809.419(3). To be eligible for reinstatement of driving privileges the person must: submit proof from a licensed optometrist or physician who specializes in the diagnosis and treatment of eye diseases that the person's vision, with or without corrective lenses, meets the vision standards set forth in OAR 735-062-0050, and pass a knowledge and drive test. Proof that vision meets DMV standards is only valid for six months from the date DMV receives the Certificate of Vision form and the person must pass the knowledge and drive test within this time period for reinstatement of driving privileges.

(4) A person whose driving privileges and right to apply for driving privileges are suspended because of a functional impairment may request to be tested by DMV to demonstrate that notwithstanding the impairment, the person is qualified to safely operate a motor vehicle. If the request is granted, DMV will administer a vision screening under OAR 735-062-0050, a knowledge test under 735-062-0040 and a DMV drive test under 735-062-0070. DMV will deny the request if it has reason to believe the person is unable to safely operate a motor vehicle during a drive test. If the request is denied, DMV may give the person tests if the person:

(a) Receives a determination of eligibility from the Medical Determination Officer;

(b) Submits proof of successful completion of a driver rehabilitation program conducted by a rehabilitation specialist;

(c) Submits proof of successful completion of a driver training course conducted by an ODOT certified commercial driver training school; or

(d) Submits proof that the person's motor vehicle is equipped with an appropriate adaptive device(s), such as hand controls, and provides documentation that the person knows how to use and has practiced with the adaptive devices(s).

(5) A person whose driving privileges and right to apply for driving privileges are suspended because of a cognitive impairment or a cognitive impairment in conjunction with a functional impairment reported under OAR 735-074-0110 may request to be tested by DMV to demonstrate that notwithstanding the disorder or the impairment, the person is qualified to safely operate a motor vehicle. Before DMV will grant the request to be tested, the Medical Determination Officer must determine that the person is medically eligible to take tests. If eligible for testing, the person must pass a vision screening under OAR 735-062-0050, a knowledge test under 735-062-0040 and a DMV drive test under 735-062-0070.

(6) The following apply to a request for testing under sections (4) and (5) of this rule:

(a) The request must be made by contacting DMV headquarters; and

(b) For a cognitive impairment or a cognitive impairment in conjunction with a functional impairment, testing must be completed within six months from the date the Medical Determination Officer determines the person is medically eligible to take tests.

(7) DMV will notify the reporting physician or health care provider if the person's driving privileges are reinstated.

(8) If the person voluntarily surrenders driving privileges as set forth in OAR 735-062-0135(4), DMV will rescind any suspension imposed under sections (2), (3) or (4) of this rule. The person may be eligible for a no-fee identification card.

(9) If the person reinstates or is reissued his or her driving privileges, DMV may require the person to provide periodic medical information based on the recommendation of the Medical Determination Officer or obtain periodic vision exams based on the recommendation of the person's vision specialist. The Medical Determination Officer may review those with functional impairments who reinstate or are reissued driving privileges for determination of whether the person should be medically recertified at a later date. The Medical Determination Officer will include a determination if medical re-certification is needed on cognitive impairments at the time a determination on testing is made. If periodic medical information is required, DMV will send the person a Medical Impairment Recertification form and require the person to obtain information from his or her physician, nurse practitioner or physician assistant and return that to DMV within 30 days of the date on the requirement letter. If a periodic vision exam must be obtained, DMV will send the person a Certificate of Vision form which must be completed by the person's vision specialist and returned to DMV within 30 days of the date on the requirement letter.

(10) A person may be required to successfully complete DMV testing or may have driving privileges suspended based on information contained in the Medical Impairment Recertification form or periodic vision information report submitted under section (9) of this rule.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340, 807.710 & 809.419

Stat. Implemented: ORS 807.340 & 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 1-2005, f. & cert. ef. 1-20-05; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 17-2011, f. 12-22-11, cert. ef. 1-1-12

735-074-0180

When a Suspension or Cancellation of Driving Privilege Occurs

(1) DMV may issue an immediate suspension of driving privileges in the following situations:

(a) As set forth in OAR 735-074-0140, if DMV has reason to believe from the information provided in a mandatory report submitted under 735-074-0120 that the person may endanger people or property if not immediately suspended;

(b) The Medical Determination Officer, upon review of medical information on a driver, recommends an immediate suspension;

(c) Information contained in a required Medical Impairment Recertification form submitted as required under OAR 735-074-0140 indicates that the person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle and DMV has reason to believe the person may endanger people or property if not immediately suspended; or

(d) Information contained in a required Certificate of Vision form submitted as required under OAR 735-074-0140 indicates the person's vision does not meet minimum vision standards under OAR 735-062-0050 and DMV has reason to believe the person may endanger people or property if not immediately suspended.

(2) DMV will immediately cancel a person's driving privileges if DMV has reason to believe that the person may endanger people or property if not immediately canceled. If DMV has reason to believe a person is unable to safely operate a motor vehicle and may endanger people or property, DMV may immediately cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010, 735-070-0020 and 735-074-0220.

(3) DMV may cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010, 735-070-0020 and 735-074-0220 if:

(a) The person's vision does not meet the minimum vision standards set forth in OAR 735-062-0050;

(b) DMV determines the person no longer meets the qualifications for a driver license, driver permit or endorsement because of a physical or mental condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highway or a problem condition involving alcohol, inhalants or controlled substances; or

(c) The person is denied a drive test by DMV or the Medical Determination Officer because of a physical or mental condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highway.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340, 807.350 & 809.419
Stat. Implemented: ORS 807.350 & 809.410
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0410; MV 14-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 14-2002, f. 8-14-02 cert. ef. 9-1-02; DMV 24-2002, f. 12-13-02 cert. ef. 1-1-03; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; Renumbered from 735-074-0020; DMV 1-2005, f. & cert. ef. 1-20-05; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-074-0190
Tests Required

Tests required under these rules may include one or more of the following:

(1) A knowledge test for the class of license and endorsement(s) held;

(2) A vision screening;

(3) A drive test for the class of license held including any endorsement(s); or

(4) Any other examination or test that DMV determines may be necessary in establishing eligibility or fitness to operate a motor vehicle (e.g., special drive test for basic needs license).

Stat. Auth.: ORS 184.616, 184.619 & 807.340
Stat. Implemented: ORS 807.070 & 807.340
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

735-074-0200
Testing Process

(1) The driver must test in the driver's current license class, unless the driver voluntarily chooses to test for a lower class of license.

(2) Before DMV may conduct a drive test, the person must successfully complete all other required tests.

(3) The waiting periods between knowledge or drive tests are listed in OAR 735-062-0040 and 735-062-0070, respectively.

(4) As set forth in OAR 735-062-0073, DMV may refuse to conduct or continue a drive test if a DMV employee reasonably believes that the person is likely to endanger persons or property while being tested. Further testing may be denied and driving privileges cancelled if DMV determines the person is likely to endanger persons or property during subsequent testing.

Stat. Auth.: ORS 184.616, 184.619, 802.010 &807.340
Stat. Implemented: ORS 807.070 & 807.340
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-074-0210
Restricted Licenses

(1) DMV may issue a restricted license to a person who passes the required tests when DMV determines a restriction on the license is necessary to insure the safe operation of a motor vehicle by the person. These restrictions may include but are not limited to the following:

(a) Daylight driving only;

(b) Driving only on a certain, restricted route;

(c) Driving only during certain hours of the day; or

(d) Driving only with certain vehicle equipment or adaptive devices.

(2) A person whose driving privileges are suspended under division 74 rules, who is otherwise eligible for driving privileges, may obtain a 60-day restricted license for the express purpose of taking driving lessons. The suspension will be rescinded for the 60-day period the restricted license is valid. Driving lessons must be provided by a commercial driving instructor, a rehabilitation specialist or other licensed driver approved by DMV as an instructor. The restricted license will only allow the person to drive with an instructor during instruction. No other driving, under any circumstances, will be allowed by the restricted license. All the following must occur before DMV will issue a restricted license under this section:

(a) If required by DMV, the person must receive a determination of medical eligibility from the Medical Determination Officer;

(b) The person must pass a DMV vision screening or submit a Certificate of Vision showing that the person's vision meets DMV standards; and

(c) The person must pass a DMV knowledge test.

(3) A restricted license issued under section (2) of this rule will include a notification that at the end of the 60-day period the suspension will be re-imposed without further notice and without the opportunity for a contested case hearing if the person has not successfully passed a driving test given by a DMV employee.

(4) If, at the end of the 60-day restricted license period under section (2) of this rule, the person has not successfully completed a driving test given by a DMV employee, DMV will re-impose the suspension of the person's driving privileges and right to apply for driving privileges. When a suspension is re-imposed under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120
Stat. Implemented: ORS 807.120
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 8-2011, f. & cert. ef. 6-21-11

735-074-0212
Restricted Applicant Temporary Permit

(1) When a person does not have Oregon driving privileges and his or her right to apply for driving privileges is suspended under OAR division 74, DMV may issue a 60-day restricted applicant temporary permit that allows the person to take driving lessons. An applicant for a permit under this section must meet all eligibility requirements listed in section (5) of this rule. The suspension will be rescinded for the 60-day period the restricted applicant temporary permit is valid. If, at the end of the 60-day restricted permit period, the person has not successfully completed a driving test given by a DMV employee, or is not otherwise eligible for driving privileges, DMV will re-impose the suspension of the person's right to apply for driving privileges. When a suspension is re-imposed under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

(2) If a person's driving privileges are cancelled and the driver is denied further testing under OAR 735-062-0073, the person may apply for a 60-day restricted applicant temporary permit for the express purpose of taking driving lessons if DMV determines that with driving lessons the person may learn to safely operate a motor vehicle. An applicant for a permit under this section must, in addition to meeting all eligibility requirements listed in section (5) of this rule, provide sufficient information to show that there is a reasonable likelihood that driving lessons will improve the person's ability to safely operate a motor vehicle. Such information may include, but is not limited to:

(a) Medical information;

(b) Information from a rehabilitation specialist that the person may benefit from lessons to learn to use an adaptive device or technique; or

(c) An affidavit from a person(s) with information to show that with driving lessons the applicant is likely to learn to safely operate a motor vehicle.

(3) Driving lessons must be provided by a certified commercial driving instructor, rehabilitation specialist or other licensed driver approved by DMV as an instructor.

(4) A restricted applicant temporary permit only allows the person to drive with an instructor during driving lessons and at no other time.

(5) To be eligible for a restricted applicant temporary permit under section (1) and (2) of this rule, the person must:

(a) If required by DMV, receive a determination of medical eligibility from the Medical Determination Officer;

(b) Apply for driving privileges, and specifically request a restricted license or permit for the purpose of taking driving lessons prior to taking a drive test;

(c) Pass a DMV vision screening or submit a Certificate of Vision showing that the person's vision meets DMV standards; and

(d) Pass a DMV knowledge test.

(6) A restricted permit issued under section (1) of this rule will include a notification that at the end of the 60-day period the suspension will be re-imposed without further notice and without the opportunity for a contested case hearing if the person has not successfully passed a driving test given by a DMV employee or is not otherwise eligible for driving privileges.

(7) A restricted permit issued under section (2) of this rule will include a notification that at the end of the 60-day period the permit expires and the person no longer has driving privileges until he or she has successfully passed a DMV driving test and is eligible for driving privileges.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.310, 807.340
Stats. Implemented: ORS 807.120, 807.310, 807.340
Hist.: DMV 6-2006, f. & cert. ef. 5-25-06; DMV 8-2011, f. & cert. ef. 6-21-11

735-074-0220
Hearing Request for Suspension or Cancellation of Driving Privileges Under Division 74 and Division 76 Rules

A person issued a notice of suspension or cancellation under these rules has the right to request a contested case hearing. The following apply to a hearing request:

(1) Except as provided in section (2) of this rule, a person issued a notice of suspension or cancellation under these rules must request a hearing within 20 days from the date on the notice. Except as provided in section (2) of this rule, the suspension or cancellation will not go into effect pending the outcome of the hearing.

(2) A person issued a notice of an immediate suspension or an immediate cancellation must request a hearing within 90 days from the date on the notice. The suspension or cancellation will remain in effect and will not be rescinded or stayed by DMV pending the outcome of the hearing.

(3) A hearing request must be in writing and must include:

(a) The person's full name;

(b) The person's complete mailing address;

(c) The person's Oregon driver license number; and

(d) A brief statement of the issues the person proposes to raise at the hearing.

(4) A hearing request should also include:

(a) The person's date of birth;

(b) The telephone number where the person can be reached between 8 a.m. and 5 p.m.; and

(c) The dates and times the person or the person's attorney cannot appear at a hearing.

(5) The administrative law judge must give DMV sufficient opportunity to obtain and present in the contested case hearing any testimony or documents deemed necessary by the agency to respond to evidence offered by the person on any factual or legal defense.

(6) In order for a request for hearing to be timely, the request must be postmarked or received by DMV within the time periods established in sections (1) and (2) of this rule. If the request for hearing is not timely received, the person waives his or her right to a hearing, except as provided in OAR 137-003-0528. The time periods will be computed as set forth in 137-003-0520(11).

(7) To be received by DMV, the hearing request must be:

(a) Personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR;

(b) Delivered by mail to DMV Headquarters, 1905 Lana Avenue NE, Salem OR 97314; or

(c) Received by facsimile machine at FAX number (503) 945-5521.

Stat. Auth.: ORS 184.616, 184.619 & 809.440
Stat. Implemented: ORS 809.440
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 23-2004, f. & cert. ef. 11-17-04

DIVISION 76

AT-RISK DRIVER PROGRAM — NON-MANDATORY REPORTING

735-076-0000
Policy, Objective and Purpose of the At-Risk Program — Non-Mandatory Reporting

(1) It is the policy of DMV to promote safety for all persons who travel or otherwise use the public highways of this state.

(2) The underlying policy of the Department's rules on at-risk drivers is to preserve the independence, dignity, and self-esteem that result from providing one's own mobility, so long as it is possible to do so without risk to oneself or to others.

(3) It is therefore an objective of these rules to establish a program for the non-mandatory reporting to DMV of those drivers who have a mental or physical condition or impairment that may affect driving ability, or drivers who have demonstrated unsafe or dangerous driving behaviors.

(4) DMV may receive information that indicates a person may no longer be qualified to hold a driver license, driver permit or endorsement or may no longer be able to drive safely. This information may come from many sources, including a physician or health care provider, a family member, friend or neighbor, a report from a police officer or a court, a DMV representative or a self-report on a driver license issuance, renewal or replacement application. Some of these reports may describe a possible mental or physical condition or impairment, a vision problem, or a possible problem condition involving alcohol, inhalants or controlled substances that indicates the person is no longer qualified to hold a driver license, driver permit or endorsement. Other reports may only describe unsafe or dangerous driving behavior that indicates the person is not able to drive safely. These rules provide procedures for the review of non-mandatory reports, the obtaining of required information necessary to determine if a driver remains qualified for driving privileges and the taking of necessary action when a determination is made that the driver is no longer qualified for driving privileges.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stats. Implemented: ORS 807.340
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0440; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-076-0002
Definitions

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) "Health care provider" is a person licensed, certified or otherwise authorized or permitted by law to administer health care in the State of Oregon. For purposes of these rules, the term health care provider is limited to: a chiropractic physician, nurse practitioner, occupational therapist, physical therapist, optometrist, physician assistant and podiatric physician or surgeon.

(3) "Immediate suspension" means the suspension of driving privileges or the right to apply for driving privileges before the person is given an opportunity for a hearing to contest the suspension.

(4) "Medical Determination Officer" is a physician, nurse practitioner or physician assistant, licensed to provide health care services by the State of Oregon, and employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.

(5) A "medical report form" is the form provided to a person or designated by DMV to be used to obtain medical information for determining if the person is eligible or qualified for driving privileges.

(6) "Non-mandatory reporting or a non-mandatory report" is a voluntary report to DMV of either a medical condition or impairment that may affect a driver's ability to safely operate a motor vehicle, or a report of actual driving behavior that may indicate the person is no longer able to safely operate a motor vehicle. A non-mandatory report does not include a report that must be filed by a physician or health care provider as required under OAR chapter 735, division 74 of a severe and uncontrollable impairment that affects a person's ability to safely operate a motor vehicle.

(7) A "physician" is a medical doctor or doctor of osteopathic medicine licensed to practice medicine in the State of Oregon by the Board of Medical Examiners, or a doctor of naturopathic medicine licensed to practice naturopathic medicine in the State of Oregon by the Board of Naturopathic Examiners.

(8) "Problem condition involving alcohol, inhalants or controlled substances" has the meaning set forth in ORS 813.040.

(9) "Recertification" or "recertify" is the process for requiring the person to reestablish eligibility for driving privileges at periodic intervals by submitting a medical report form, or by submitting a Certificate of Vision form (DMV form 24) or passing a DMV vision screening. The process may also include DMV tests, receiving a determination of eligibility from the Medical Determination Officer, or both, if determined necessary by DMV.

(10) "Tests" are examinations under ORS 807.070 that establish a person's eligibility for driving privileges. Tests include a DMV vision screening, a knowledge test and a drive test.

(11) "Unsafe or dangerous driving behavior" means a driver is unable to perform basic driving tasks in a safe and competent manner. Examples include, but are not limited to, the following:

(a) The driver is prevented from causing an accident by an evasive maneuver by another driver(s);

(b) The driver impedes traffic or fails to yield the right of way, such as: driving too slowly; driving in more than one lane of traffic; turning from the wrong lane; or turning into the wrong lane; and

(c) Failure to obey or difficulty obeying a traffic control device, such as: running a red light or stop sign; stopping beyond the designated stop line at a traffic light or stop sign; failing to stop for a pedestrian in a marked crosswalk; or driving the wrong way on a one-way street.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stats. Implemented: ORS 807.340
Hist.: DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-076-0005
Reporting Requirements

(1) In order for DMV to process a non-mandatory report that indicates a person may no longer be qualified for driving privileges or may no longer be able to safely operate a motor vehicle, it must be in writing and contain:

(a) The name of the person making the report, including a signature;

(b) The name and date of birth of the person being reported or a description of the person sufficient for DMV to identify the reported person from its records; and

(c) Sufficient information to give DMV reason to believe the person may no longer be qualified to hold a driver license, driver permit, or endorsement or may no longer be able to drive safely. For purposes of this rule, sufficient information includes but is not limited to:

(A) A physician or health care provider report of a physical or mental condition or impairment that is not reportable as required under OAR chapter 735 division 74 and includes a description of how the person's ability to drive safely may be affected;

(B) A report of a physical or mental condition or impairment, and a description of how the person's ability to safely operate a motor vehicle is affected; or a description of unsafe or dangerous driving behavior;

(C) A report by a police officer, physician or health care provider where a physical or mental condition or impairment is stated as a cause or possible cause of a crash or unsafe or dangerous driving behavior;

(D) A self-report on a driver's license/permit issuance, renewal or replacement application of a vision problem affecting driving and failure to pass a DMV administered vision screening;

(E) A self-report on a driver's license/permit issuance, renewal or replacement application of a mental or physical condition or impairment affecting the person's ability to drive safely;

(F) A self-report on a driver's license/permit issuance, renewal or replacement application of a problem condition involving alcohol, inhalants or controlled substances affecting the person's ability to drive safely; or

(G) A report of unsafe or dangerous driving behavior and DMV has reason to believe the driving behavior is likely to recur or similar driving behavior has previously been reported to DMV.

(2) All written documentation voluntarily submitted under this rule, including the name of the person submitting the documentation, will be kept confidential and not released to any person unless:

(a) The report was submitted by a police officer or judge acting within the scope of his or her official duties;

(b) DMV determines the documentation, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law; or

(c) The documentation is determined by DMV to be necessary evidence in an administrative proceeding involving the suspension or cancellation of the person's driving privileges or right to apply for driving privileges.

(3) Before taking action, DMV may request more information from the person making the report if DMV has reason to believe the information provided is inaccurate or inadequate.

Stat. Auth: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stat. Implemented: ORS 807.340
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 6-2008(Temp), f. & cert. ef. 2-22-08 thru 8-19-08; DMV 11-2008, f. & cert. ef. 5-19-08

735-076-0007
DMV Response to Non-Mandatory Report

DMV will review a non-mandatory report meeting the requirements under OAR 735-076-0005 to determine the appropriate action to take, which may include any or all of the following:

(1) No action if the report does not give DMV reason to believe the person being reported is no longer qualified to hold a driver license, driver permit, or endorsement or is no longer able to drive safely. This includes a report from a physician or health care provider indicating the condition or impairment is not likely to recur or does not affect the person's ability to drive safely, or a report of driving behavior that reports a single incident with no indication of a mental or physical condition or impairment affecting the person's ability to safely drive.

(2) The person may be required to reestablish eligibility by taking a test under ORS 807.070 when the report is one or more of the following:

(a) A report of a mental or physical condition or impairment that may affect the person's ability to safely operate a motor vehicle, not including a loss of consciousness or control or a problem condition involving alcohol, inhalants or controlled substances.

(b) A report of unsafe or dangerous driving behavior only.

(3) The person will be required to provide a medical report form or Certificate of Vision form when the report is of the following:

(a) The person's vision may not meet the vision standards set forth in OAR 735-062-0050;

(b) A self-report on a license/permit issuance, renewal or replacement application of a mental or physical condition or

impairment that affects the person's ability to drive safely; and the condition or impairment is one that causes the loss of consciousness or control;

(c) A self-report on a license/permit issuance, renewal or replacement application of a problem condition involving alcohol, inhalants or controlled substances that affects the person's ability to drive safely; or

(d) A report of a condition or impairment that involves the loss of consciousness or control, or a possible problem condition involving alcohol, inhalants or controlled substances, and DMV has reason to believe from the report that the person may no longer be qualified for driving privileges or may no longer be able to safely operate a motor vehicle.

(4) The person may be required to receive a determination of eligibility from the Medical Determination Officer under ORS 807.090 when the report indicates one or more of the following:

(a) A loss of consciousness or control is a cause or possible cause of a crash or of unsafe or dangerous driving behavior.

(b) Evidence of continued episodes of loss of consciousness or control despite current treatment.

(c) Evidence of a problem condition involving alcohol, inhalants or controlled substances.

(5) An immediate suspension of the person's driving privileges under ORS 809.419(3)(c), when the report provides DMV reason to believe that the person may endanger people or property if not immediately suspended. To regain driving privileges the person will be required to reestablish eligibility for driving privileges which may include taking tests under ORS 807.070, submitting a medical report form or Certificate of Vision, or receiving a determination of eligibility from the Medical Determination Officer under ORS 807.090.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stat. Implemented: ORS 807.340
Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 14-2005, f. & cert. ef. 5-19-05; Renumbered from 735-074-0160, DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-076-0010
The Testing Process

(1) If DMV determines a person must reestablish eligibility by taking tests as described in OAR 735-076-0007(2), DMV will send a requirement letter to the driver requiring the driver to reestablish the person's eligibility by successfully completing tests.

(2) The driver must successfully complete the tests within 60 days of the date of the requirement letter. DMV may grant an extension, not to exceed 120 additional days, if:

(a) The person is seriously ill or injured and a physician requests an extension in writing; or

(b) The person is temporarily out of state and a written request is received from the person.

(3) The driver must test in the driver's current license class, unless the driver voluntarily chooses to test for a lower class of license.

(4) Before DMV will conduct a drive test, the person must successfully complete all other required tests.

(5) If the person is unable to pass the DMV vision screening, DMV will require the person to have a vision specialist complete a Certificate of Vision form. DMV will only provide a knowledge or drive test if the completed Certificate of Vision form indicates that the person's vision meets DMV's standards as set forth in OAR 735-062-0050.

(6) The waiting periods between knowledge or drive tests are listed in OAR 735-062-0040 and 735-062-0070, respectively.

(7) As set forth in OAR 735-062-0073, DMV may refuse to continue a drive test if a DMV employee reasonably believes that the person is likely to endanger persons or property while being tested, and further testing may be denied and driving privileges cancelled if DMV determines the person is likely to endanger persons or property during subsequent testing.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340, 809.419
Stats. Implemented: ORS 807.070, 807.340
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0450; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06

735-076-0015
The Process When a Medical Report Form or Certificate of Vision is Required

(1) When DMV determines medical information or a Certificate of Vision form is necessary to determine the person's continuing eligibility for driving privilege, as described in OAR 735-076-0007(3), DMV will send a letter to the driver requiring the driver to submit the completed medical report form or Certificate of Vision form provided by DMV. The medical report form must be completed by the driver and by the driver's physician, nurse practitioner or physician assistant. The Certificate of Vision must be completed by the driver's vision specialist.

(2) The driver must submit the completed medical report form or Certificate of Vision form within 30 days of the date of the requirement letter. DMV may grant an extension, not to exceed 120 additional days, if:

(a) The person is seriously ill or injured and a physician requests an extension in writing;

(b) The person is temporarily out of state and a written request is received from the person; or

(c) The person can show that an appointment was requested in a timely manner, but the earliest appointment available exceeded the 30 days.

(3) Sections (1) and (2) of this rule apply when the person must provide a medical report form or Certificate of Vision from to recertify eligibility for driving privileges.

Stat. Auth: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stat. Implemented: ORS 807.340
Hist.: DMV 6-2006, f. & cert. ef. 5-25-06

735-076-0018
The Process when a Determination of Eligibility from the Medical Determination Officer is Required

(1) When DMV determines that the Medical Determination Officer must determine a person's continuing eligibility for driving privileges, as described in OAR 735-076-0007(4), DMV will require the person to submit a medical report form or Certificate of Vision form as set forth in OAR 735-076-0015.

(2) When received, the medical report form or Certificate of Vision form and any other relevant reports or information in DMV's At-Risk Program file will be reviewed by the Medical Determination Officer. The Medical Determination Officer may determine either that the person is medically eligible or medically ineligible for driving privileges. A determination of medical eligibility may include a requirement that the person's motor vehicle be equipped with an appropriate adaptive device(s), such as hand controls.

(3) A person determined medically eligible for driving privileges may be required to also pass tests as set forth in OAR 735-076-0010, if DMV has reason to believe that notwithstanding the determination of medical eligibility, the person may not be able to safely operate a motor vehicle. The person will also be required to pass a driving test if the Medical Determination Officer requires that the person's motor vehicle be equipped with an appropriate adaptive device(s), such as hand controls, and before a driving test is given, the person must provide documentation that he or she knows how to use and has practiced with the adaptive device(s).

(4) A person who is determined to be medically ineligible for driving privileges must complete the requirements set forth by the Medical Determination Officer, if any, before any subsequent review of medical eligibility can occur. DMV and the Medical Determination Officer will consider newly submitted medical information, at any time, if the reported condition has been resolved and is not likely to recur or if it has been determined that the condition does not affect the person's ability to safely operate a motor vehicle.

Stat. Auth: ORS 184.616, ORS 184.619, 802.010, 807.340 & 809.419
Stat. Implemented: ORS 807.090 and 807.340

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0405; MV 37-1989, f. & cert. ef. 10-3-89; MV 14-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 14-2002, f. 8-14-02 cert. ef. 9-1-02; DMV 24-2002, f. 12-13-02 cert. ef. 1-1-03: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; Renumbered from 735-074-0010; DMV 1-2005, f. & cert. ef. 1-20-05; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 14-2005, f. & cert. ef. 5-19-05; Renumbered from 735-074-0170, DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-076-0020
Suspension or Cancellation of Driving Privileges

(1) DMV may issue an immediate suspension of driving privileges in the following situations:

(a) If DMV determines from a non-mandatory report that the person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle upon the highways and DMV has reason to believe the person may endanger people or property if not immediately suspended;

(b) If based upon information included in a police accident report or other law enforcement report, DMV has reason to believe that a person may endanger people or property if not immediately suspended due to a mental or physical condition that makes it unsafe for the person to operate a motor vehicle upon the highways;

(c) The Medical Determination Officer, upon review of medical information on a driver, recommends an immediate suspension;

(d) Information contained in a required Medical Impairment Recertification form submitted as required under OAR 735-076-0035 indicates that the person has a mental or physical condition that makes it unsafe for the person to operate a motor vehicle and DMV has reason to believe the person may endanger people or property if not immediately suspended; or

(e) Information contained in a required Certificate of Vision form indicates the person's vision does not meet minimum vision standards under OAR 735-062-0050 and DMV has reason to believe the person may endanger people or property if not immediately suspended.

(2) DMV will suspend driving privileges or the right to apply for driving privileges as follows:

(a) Under ORS 809.419(1) if the person fails to successfully complete the required tests within 60 days of the date of the requirement letter, or within the time period granted if an extension is granted under OAR 735-076-0010(2);

(b) Under ORS 809.419(2), for failure to obtain a medical clearance, if the medical report form is not completed by the person and the person's physician, nurse practitioner, or physician assistant, submitted to and received by DMV within 30 days of the date on the letter sent from DMV, unless DMV has granted an extension under OAR 735-076-0015;

(c) Under ORS 809.419(2), for failure to obtain a medical clearance, if the person fails to submit a Medical Impairment Recertification form as required under OAR 735-076-0035, unless an extension is granted by DMV;

(d) Under ORS 809.419(2), for failure to obtain a medical clearance, if the person fails to submit a Certificate of Vision form when the person is required to obtain a periodic vision exam under OAR 735-076-0035, unless an extension is granted by DMV;

(e) Under ORS 809.419(3), as incompetent to drive because of a mental or physical condition or impairment that makes it unsafe for the person operate a motor vehicle, because the Medical Determination Officer determines that a driver is medically ineligible for driving privileges under ORS 807.090, and the person has valid driving privileges;

(3) If the person voluntarily surrenders driving privileges as set forth in OAR 735-062-0135(4), DMV will rescind any suspension imposed under sections (1), (2) or (4) of this rule.

(4) DMV will suspend commercial driving privileges under ORS 809.419(3) if the Medical Determination Officer has determined that the holder of a Class A, B, or C commercial driver license no longer meets the physical qualifications outlined in 49 CFR sections 391.41 through 391.49.

(5) DMV may cancel driving privileges pursuant to ORS 807.350 and OAR 735-070-0010, 735-070-0020 and 735-074-0220 if:

(a) The person's vision does not meet the minimum vision standards set forth in OAR 735-062-0050; or

(b) DMV determines the person no longer meets the qualifications for a driver license, driver permit or endorsement because of a physical or mental condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highway or a problem condition involving alcohol, inhalants or controlled substances.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stats. Implemented: ORS 807.340 & 809.419
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0460; MV 17-1992, f. 12-16-92, cert. ef. 1-1-93; DMV 16-2001, f. & cert. ef. 9-21-01; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 17-2011, f. 12-22-11, cert. ef. 1-1-12

735-076-0035
Recertification

(1) If the person retains his or her driving privileges, or regains his or her driving privileges after a suspension, recertification may be required when:

(a) The person's reported condition or impairment is progressive or unpredictable;

(b) Recommended by the physician or health care provider when completing a medical report form; or

(c) Recommended by the Medical Determination Officer.

(2) The time period for recertification will be based on the recommendation of the Medical Determination Officer or the person's physician, nurse practitioner or physician assistant, or on the recommendation of the person's vision specialist.

(3) If medical recertification is required, DMV will send the person a Medical Impairment Recertification form which must be completed by his or her physician, nurse practitioner, or physician assistant and returned to DMV.

(4) If vision recertification is required, DMV will send the person a Certificate of Vision form which must be completed by the person's vision specialist and returned to DMV.

(5) The person must submit the completed Medical Impairment Recertification form or Vision form within 30 days of the date of the requirement letter. DMV may grant an extension, not to exceed 120 additional days, if:

(a) The person is seriously ill or injured and a physician requests an extension in writing;

(b) The person is temporarily out of state and a written request is received from the person; or

(c) The person can show that an appointment was requested in a timely manner, but the earliest appointment available exceeded the 30 days.

Stat. Auth: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stat. Implemented: ORS 807.340
Hist.: DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08

735-076-0050
Restricted License

(1) DMV may issue a restricted license to a person who passes the required tests when DMV determines a restriction on the license is necessary to insure the safe operation of a motor vehicle by the person. These restrictions may include but are not limited to the following:

(a) Daylight driving only;

(b) Driving only on a certain, restricted route;

(c) Driving only during certain hours of the day; or

(d) Driving only with certain vehicle equipment or adaptive devices.

(2) A person whose driving privileges are suspended under division 76 rules, who is otherwise eligible for driving privileges, may obtain a 60-day restricted license for the express purpose of taking driving lessons. The suspension will be rescinded for the 60-day period the restricted license is valid. Driving lessons must be

provided by a commercial driving instructor, a rehabilitation specialist or other licensed driver approved by DMV as an instructor. The restricted license will only allow the person to drive with an instructor during instruction. No other driving, under any circumstances, will be allowed by the restricted license. All the following must occur before DMV will issue a restricted license under this section:

(a) If required by DMV, the person must receive a determination of medical eligibility from the Medical Determination Officer;

(b) The person must pass a DMV vision screening or submit a Certificate of Vision showing that the person's vision meets DMV standards; and

(c) The person must pass a DMV knowledge test.

(3) A restricted license issued under section (2) of this rule will include a notification that at the end of the 60-day period the suspension will be re-imposed without further notice and without the opportunity for a contested case hearing if the person has not successfully passed a driving test given by a DMV employee.

(4) If, at the end of the 60-day restricted license period under section (2) of this rule, the person has not successfully completed a driving test given by a DMV employee, DMV will re-impose the suspension of the person's driving privileges and right to apply for driving privileges. When a suspension is re-imposed under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.340 & 809.419
Stats. Implemented: ORS 807.120, 807.340
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0490; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 8-2011, f. & cert. ef. 6-21-11

735-076-0052
Restricted Applicant Temporary Permit

(1) When a person does not have Oregon driving privileges and his or her right to apply for driving privileges is suspended under OAR division 76, DMV may issue a 60-day restricted applicant temporary permit that allows the person to take driving lessons. An applicant for a permit under this section must meet all eligibility requirements listed in section (5) of this rule. The suspension will be rescinded for the 60-day period the restricted applicant temporary permit is valid. If, at the end of the 60-day restricted permit period, the person has not successfully completed a driving test given by a DMV employee or is not otherwise eligible for driving privileges, DMV will re-impose the suspension of the person's right to apply for driving privileges. When a suspension is re-imposed under this section, DMV is not required to provide the person with further notice or an opportunity for a contested case hearing.

(2) If a person's driving privileges are cancelled and the driver is denied further testing under OAR 735-062-0073, the person may apply for a 60-day restricted applicant temporary permit for the express purpose of taking driving lessons if DMV determines that with driving lessons the person may learn to safely operate a motor vehicle. An applicant for a permit under this section must, in addition to meeting all eligibility requirements listed in section (5) of this rule, provide sufficient information to show that there is a reasonable likelihood that driving lessons will improve the person's ability to safely operate a motor vehicle. Such information may include, but is not limited to:

(a) Medical information;

(b) Information from a rehabilitation specialist that the person may benefit from lessons to learn to use an adaptive device or technique; or

(c) An affidavit from a person(s) with information to show that with driving lessons the applicant is likely to learn to safely operate a motor vehicle.

(3) Driving lessons must be provided by a certified commercial driving instructor, rehabilitation specialist or other licensed driver approved by DMV as an instructor.

(4) A restricted applicant temporary permit only allows the person to drive with an instructor during driving lessons and at no other time.

(5) To be eligible for a restricted applicant temporary permit under sections (1) and (2) of this rule, the person must:

(a) If required by DMV, receive a determination of medical eligibility from the Medical Determination Officer;

(b) Apply for driving privileges, and specifically request a restricted permit for the purpose of taking driving lessons prior to taking a drive test;

(c) Pass a DMV vision screening or submit a Certificate of Vision showing that the person's vision meets DMV standards; and

(d) Pass a DMV knowledge test.

(6) A restricted permit issued under section (1) of this rule will include a notification that at the end of the 60-day period the suspension will be re-imposed without further notice and without the opportunity for a contested case hearing if the person has not successfully passed a driving test given by a DMV employee or is not otherwise eligible for driving privileges.

(7) A restricted permit issued under section (2) of this rule will include a notification that at the end of the 60-day period the permit expires and the person no longer has driving privileges until he or she has successfully passed a DMV driving test given by a DMV employee and is otherwise eligible for driving privileges.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.310, 807.340
Stats. Implemented: ORS 807.120, 807.310, 807.340
Hist.: DMV 6-2006, f. & cert. ef. 5-25-06; DMV 8-2011, f. & cert. ef. 6-21-11

735-076-0060
Hearing Provisions

A person issued a notice of suspension or cancellation under these rules has the right to request a contested case hearing. To request a hearing, the person must submit a hearing request that meets the requirements of OAR 735-074-0220.

Stat. Auth.: ORS 184.616, 184.619, 807.340 & 809.410
Stats. Implemented: ORS 807.340
Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0495; DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03

DIVISION 80

PARKING

735-080-0000
Procedures for the Issuance of Parking Permits for Winter Recreation Parking Areas

The following procedures apply to the issuance of Winter Recreation Parking Permits (Sno-Park permits) that are required to park certain vehicles in winter recreation parking areas:

(1) There are three types of Sno-Park permits: Annual, Three-day, and Daily. Each permit type is printed a different color for purposes of identification. Sno-Park permits are valid as follows:

(a) The Annual permit is valid for a one year period beginning November 1 and must be displayed from November 1 to April 30;

(b) The Three-day permit is valid for three consecutive days. Example: a three-day Sno-Park permit purchased for use on Monday expires at midnight on Wednesday;

(c) The Daily permit is valid for one day, and expires at midnight on the day for which it is issued.

(2) Sno-Park permits must be displayed inside the vehicle, near the lower left corner of the windshield.

(3) Sno-Park permits are issued to any person upon request and payment of the applicable fees. Permits may be transferred from vehicle to vehicle.

(4) DMV may appoint Sno-Park permit sales agents to issue Sno-Park permits to the public on behalf of the Division. Any person or business wishing to be appointed as a Sno-Park permit sales agent must enter into a Sno-Park permit sales agent agreement with DMV.

(5) Sno-Park permit fees are established by the Oregon Transportation Commission under OAR 734-020-0070.

(6) DMV will maintain records on the number and type of Sno-Park permits issued, and the fee amounts collected from the

sale of Sno-Park permits. The date of issuance or to whom a permit is issued will not be recorded.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.600 & 811.595
Stats. Implemented: ORS 802.600, 810.170, 811.590, 811.595 & 811.600
Hist.: MV 83, f. & ef. 11-16-77; MV 7-1978, f. 10-20-78, ef. 10-23-78; MV 1-1979(Temp), f. & ef. 1-22-79; MV 5-1979, f. & ef. 10-18-79; MV 10-1983, f. 10-5-83, ef. 10-15-83; MV 34-1987, f. & ef. 11-2-87; Administrative Renumbering 3-1988, Renumbered from 735-041-0010; MV 8-1993, f. & cert. ef. 10-21-93; DMV 4-2000(Temp), f. 7-18-00, cert. ef. 7-18-00 thru 1-13-01; DMV 14-2000, f. & cert. ef. 12-14-00; DMV 25-2008, f. & cert. ef. 9-11-08

735-080-0020
Issuance of Disabled Person Parking Permits

(1) Individual — The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) will issue an individual disabled person parking permit or decal, or both, as described in ORS 811.605 to an applicant whose completed application (DMV form 735-265) includes:

(a) The applicant's name and address;

(b) The applicant's driver license number, disability golf cart driver permit number or identification card number; and

(c) A certificate, as required by ORS 811.604, that the applicant is a person with a disability.

(2) Wheelchair User — DMV will issue a wheelchair user disabled person parking permit or decal, as described in ORS 811.613, to an applicant whose completed application (DMV form 735-265) includes:

(a) The applicant's name and address;

(b) The applicant's driver license number, disability golf cart driver permit number or identification card number;

(c) A certificate, as described in ORS 811.604, showing that the applicant is a person with a disability and the person has a condition that requires the use of a wheelchair or similar low-powered motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability; and

(d) The applicant certifies that he or she uses a wheelchair or similar vehicle and requires a van accessible parking space.

(3) Temporary Disability — DMV will issue a temporary disabled person parking permit, valid for a maximum of six months, to a person whose completed application (DMV form 735-265) includes:

(a) The applicant's name and address;

(b) The applicant's driver license number, disability golf cart driver permit number, identification card number, or customer number, if one has been assigned by DMV; and

(c) A certificate, as required by ORS 811.604, except that it certifies that the applicant is temporarily disabled for less than four years. If the certificate specifies an ending date of the disability that is less than six months, that date will be used as the expiration date of the permit.

(4) Foreign Visitor — DMV will issue a foreign visitor permit valid for 30 days to a person who meets the requirements of ORS 811.611. If the person does not have a disabled person permit or certificate issued by the country that issued the person's passport or visa, the person must provide a certificate meeting the requirements of ORS 811.604(1).

(5) Program — DMV will issue a program disabled person parking permit, as described under ORS 811.607, to a program that regularly operates at least one vehicle for the transportation of persons with disabilities, including, but not limited to a nonprofit organization, an agency, a residential care facility, an assisted living facility, a medical or persons with disabilities transportation service, or an adult foster care home. The program's completed application (DMV form 735-265 PP) must include:

(a) The program's name and address;

(b) The name of the program's contact person;

(c) A certification that the program is an organization, agency or business that regularly transports persons with disabilities; and

(d) The number of vehicles in the program that regularly transports persons with disabilities.

(6) Family — DMV will issue a family disabled person parking permit to a family that has more than one person with disabilities residing in the same household. The applicant must be an adult family member and the applicant's completed application (DMV form 735-265 FPP) must include;

(a) The name and address of the applicant;

(b) A certificate, as required by ORS 811.609, that the family includes at least two persons with a disability, including the name of each family member with a disability; and

(c) The number of vehicles regularly used by the family to transport those family members with a disability.

Stat. Auth.: ORS 801.235, 802.010, 811.602, 811.607 & 811.609
Stats. Implemented: ORS 811.602 & 811.604, 811.605, 811.606, 811.607 & 811.609
Hist.: MV 11-1985, f. 9-19-85, ef. 9-20-85; MV 30-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-08810; MV 38-1989, f. & cert. ef. 10-3-89; MV 20-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 20-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 29-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 4-2011, f. & cert. ef. 3-16-11

735-080-0040
Replacement of Disabled Person Parking Permits

(1) DMV may replace a disabled person parking permit, including an individual permit, a wheelchair user permit, a temporary permit, a temporary duplicate permit, and a permit with a parking identification card as described in OAR 735-080-0060. To replace a permit or decal, the holder may apply for replacement in person at a DMV field office or by mail to the DMV Driver Issuance Unit — Parking Permits Clerk at 1905 Lana Ave NE, Salem, OR, 97314. All replacements for program and family permits are required to apply by mail to the DMV Driver Issuance Unit — Parking Permits Clerk at 1905 Lana Ave NE, Salem, OR, 97314. The holder must submit an Application for a Person with a Disability Parking Permit (DMV form 735-265) as described in OAR 735-080-0020 or 735-080-0060 that includes:

(a) The name, address and Oregon driver license or permit number (ODL), identification card number (ID) or customer number;

(b) A certification that the original disabled person parking permit is lost or destroyed; and

(c) A certification that the applicant continues to qualify for the permit.

(2) If a required certificate as described in ORS 811.604 or 811.609 is not on file with DMV, DMV will not replace a lost or stolen disabled person parking permit. The person must apply for an original disabled person permit as set forth in OAR 735-080-0020.

Stat. Auth.: ORS 184.616, 184.619, 811.602, 811.607 & 811.609
Stats. Implemented: ORS 811.602, 811.604, 811.605, 811.606, 811.607 & 811.609
Hist.: MV 11-1985, f. 9-19-85, ef. 9-20-85; MV 30-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0830; MV 38-1989, f. & cert. ef. 10-3-89; MV 20-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 6-1996, f. & cert. ef. 8-15-96; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 18-2001(Temp), f. & cert. ef. 9-21-01 thru 3-19-01; DMV 6-2002, f. & cert. ef. 3-14-02; DMV 20-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 29-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 4-2011, f. & cert. ef. 3-16-11

735-080-0046
Expiration and Renewal of Disabled Person Parking Permits

(1) An individual or wheelchair user permit or decal expires on the expiration date of the person's driver license, disability golf cart permit, identification card or parking identification card. The permit or decal must be renewed within one year from the date of expiration of the permit. To renew a permit or decal, the holder must appear in person at a DMV field office if also renewing a driver license, disability golf cart permit or identification card. Otherwise, the holder may renew by mail by submitting:

(a) The Parking Placard and Driver license or ID card Renewal Reminder (DMV form 735-7353) that includes a Certificate of Disability completed by the holder's physician; or

(b) An Application for a Person with a Disability Parking Permit, on DMV form 735-265 as described in OAR 735-080-0020, that includes a Certificate of Disability completed by the holder's physician, certified nurse practitioner or physician assistant.

(2) To renew a disabled person parking permit with a parking identification card as described in OAR 735-080-0060 the holder

must submit by mail, to the DMV Driver Issuance Unit — Parking Permits Clerk at 1905 Lana Ave NE, Salem, OR, 97314, a completed Non-Photo Parking ID Card and Disabled Person's Parking Permit Application (DMV form 735-265) that includes a Certificate of Disability completed by the holder's physician, certified nurse practitioner or physician assistant.

(3) A program permit expires eight years from the date of issuance. DMV will renew and issue new permit(s) if the program continues to qualify and completes DMV form 735-265PP. The form must be mailed to DMV, Driver Issuance Unit, 1905 Lana Avenue NE, Salem, Oregon 97314. The permit must be renewed within one year from the date of expiration of the permit.

(4) A family permit expires eight years from the date of issuance. DMV will renew and issue new permit(s) if a family continues to qualify and completes DMV form 735-265FPP. The form must be mailed to DMV, Driver Issuance Unit, 1905 Lana Avenue NE, Salem, Oregon 97314. The permit must be renewed within one year from the date of expiration of the permit.

(5) A temporary disabled person parking permit expires six months from the date of issuance. The permit may not be renewed, but the person may re-apply for a temporary disabled person parking permit by complying with OAR 735-080-0020(3) if the person's temporary disability continues beyond a six-month period.

(6) A temporary duplicate permit expires 30 days after issuance. A person may not renew a temporary duplicate permit.

(7) A disabled person parking permit automatically expires and becomes invalid when the individual, wheelchair user, program or family no longer meets the qualifying conditions. The permit must be returned immediately to DMV. A disabled person parking permit may not be transferred to any other person.

Stat. Auth.: ORS 184.616, 184.619, 811.602, 811.607 & 811.609
Stats. Implemented: ORS 811.602, 811.604, 811.605, 811.606, 811.607 & 811.609
Hist.: DMV 4-2011, f. & cert. ef. 3-16-11

735-080-0050
Display and Use of Disabled Person Parking Permits

(1) A disabled person parking permit may only be used as allowed under ORS 811.635, or 811.637 if issued to an authorized program.

(2) The proper display of a disabled person parking permit is to hang the permit from the rearview mirror of the vehicle so the expiration date is visible from outside the vehicle when the permit is displayed in the vehicle. The permit must be removed from the rearview mirror prior to the operation of the vehicle.

(3) DMV will issue disabled person parking decals to motorcycles, golf carts or other similar vehicles. The decal will be affixed to the back of the left rearview mirror. If such a display is not possible, the person will attach the decal to the front fender of the vehicle so that the permit number and expiration date are visible from the front of the vehicle.

Stat. Auth.: ORS 184.616, 811.602, 811.607 & 811.609
Stats. Implemented: ORS 811.602 & 811.604 - 811.609
Hist.: MV 11-1985, f. 9-19-85, ef. 9-20-85; MV 30-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0840; MV 38-1989, f. & cert. ef 10-3-89; DMV 6-1996, f. & cert. ef. 8-15-96; DMV 6-2002, f. & cert. ef. 3-14-02

735-080-0060
Parking Identification Card

(1) An applicant for an individual disabled parking permit who does not have a driver license, driver permit, or identification card and is unable to go to a DMV office to be photographed, must obtain a parking identification card. The applicant must submit the following to DMV:

(a) An application (DMV form 735-265 NPP) for a parking identification card that includes the applicant's name, residence address, date of birth, height, weight, and signature, and a certificate, as required by ORS 811.604, that the applicant is a person with a disability. It must also include a statement from a licensed physician that because of the applicant's medical or physical condition, it is impractical or harmful for the applicant to appear at a DMV office to be photographed; and

(b) The fee for issuance of a parking identification card under ORS 807.410(1).

(2) The applicant must mail the application, fee and statement from a physician to DMV, Driver Issuance Unit, 1905 Lana Avenue NE, Salem, Oregon 97314.

(3) A parking identification card issued under this rule expires on the applicant's birthday, in the eighth calendar year after the year of issuance or on the date it is no longer medically impractical or harmful to the applicant to appear at a DMV office to be photographed for an identification card, whichever is earlier.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 811.603
Stats. Implemented: ORS 811.603 & 2008 OL Ch 1
Hist.: MV 20-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 6-1996, f. & cert. ef. 8-15-96; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 18-2001(Temp), f. & cert. ef. 9-21-01 thru 3-19-02; DMV 6-2002, f. & cert. ef. 3-14-02; DMV 12-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 29-2009, f. 12-22-09, cert. ef. 1-1-10

735-080-0070
Replacement/Renewal of a Parking Identification Card

(1) DMV may replace a parking identification card if the card is lost, mutilated or destroyed. Replacement of a disabled parking identification card is subject to the following:

(a) If a statement from a licensed physician is on file with DMV, the person must submit an application for replacement and the replacement fee under ORS 807.410 to DMV, but does not need to submit a statement from a licensed physician;

(b) If a statement from a licensed physician is not on file with DMV, the person must apply for a parking identification card as provided in OAR 735-080-0060(1) and (2);

(c) An applicant for a replacement parking identification card must certify that the original parking identification card has been lost or destroyed; and

(d) The replacement parking identification card will have the same expiration date as the parking identification card it replaces.

(2) DMV may renew a parking identification card upon expiration or within one year after the expiration date if the person is also renewing the disabled person parking permit. To renew, an applicant must submit the following to DMV:

(a) A renewal application containing the applicant's name, residence address, date of birth, height, weight, signature and a signed statement from the applicant that it is still medically impractical or harmful for the applicant to appear at a DMV office to be photographed.

(b) The renewal fee under ORS 807.410; and

(c) Proof of residence address as described in OAR 735-062-0030 if the residence address of the applicant has changed since issuance of the most recent parking identification card.

(3) A renewed parking identification card expires eight years from the expiration date on the immediately preceding identification card or on the date it is no longer medically impractical or harmful to the applicant to appear at a DMV office to be photographed for an identification card, whichever is earlier.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 811.603
Stats. Implemented: ORS 811.603 & 2008 OL Ch 1
Hist.: MV 20-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 6-1996, f. & cert. ef. 8-15-96; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 18-2001(Temp), f. & cert. ef. 9-21-01 thru 3-19-02; DMV 6-2002, f. & cert. ef. 3-14-02; DMV 12-2008, f. 6-23-08, cert. ef. 7-1-08

735-080-0080
Temporary Duplicate Permits

(1) DMV may issue a temporary duplicate permit to an applicant with a valid renewable disabled person parking permit, disabled person parking decal or temporary disabled parking permit and who needs a second permit to travel outside of the person's county of residence. The person must submit a completed application (DMV Form 265).

(2) DMV will only issue a temporary duplicate permit for travel purposes. Travel purposes means a person must park a vehicle in a disabled person parking space to travel outside of the person's county of residence in another vehicle.

(3) DMV will not issue a temporary duplicate permit with an expiration date that is later than the expiration date of the driver

license, driver permit or identification card of the individual applying for the permit.

(4) Except as provided in section (5) of this rule, a temporary duplicate permit is valid for a period of 30 days from the date of issuance.

(5) A person may apply for a new temporary duplicate permit within seven days of the expiration of an existing temporary duplicate permit. The effective date of the new temporary duplicate permit will be the day after the expiration date of the existing permit.

Stat. Auth.: ORS 184.616 & 811.602
Stats. Implemented: ORS 811.602
Hist.: DMV 6-1996, f. & cert. ef. 8-15-96; DMV 20-2007, f. 12-24-07, cert. ef. 1-1-08

DIVISION 90

IMPLIED CONSENT HEARING PROCEDURES

735-090-0000
Definitions

As used in OAR 735-090-0000 through 735-090-0120, unless the context requires otherwise:

(1) "Agency" means Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation.

(2) "Error of the Department," as used in ORS 813.440(1)(c), means:

(a) An act or omission of the agency or OAH, which by its occurrence, prevented the petitioning party from participating in a recorded or reported hearing that determines the validity of a suspension of driving privileges; or

(b) An act or omission of the agency or OAH in issuing a subpoena to a witness, including a police officer, to a recorded or reported hearing that determines the validity of a suspension of driving privileges and where the witness' participation at the reported or recorded hearing is required in order for the agency to establish the required elements under ORS 813.410(6); or

(c) An act or omission of the agency or OAH in issuing a subpoena to a necessary witness where:

(A) The agency receives the petitioning party's request to subpoena a necessary witness more than 72 hours prior to the time and date that a recorded or reported hearing that determines the validity of a suspension of driving privileges is scheduled; and

(B) The act or omission, by its occurrence, prevented the necessary witness from participating in the hearing; or

(d) An act or omission of the agency or OAH that prevents a recorded or reported hearing that determines the validity of a suspension of driving privileges from being conducted.

(3) "In-person hearing" means that at least one of the petitioning party and at least one agency witness are present in the same location as the Administrative Law Judge.

(4) "OAH" means the Office of Administrative Hearings when it is performing services on behalf of the agency under OAR chapter 735 division 90.

(5) "Other just cause" as used in ORS 813.440(1)(g) means:

(a) Circumstances beyond the reasonable control of the petitioning party and beyond the ability of a reasonable person to foresee, which:

(A) Prevented the petitioning party from filing a timely request for a hearing as set forth in ORS 813.410(3); or

(B) Prevented the petitioning party from requesting the agency or OAH to subpoena a necessary witness more than 72 hours prior to the time and date that a recorded or reported hearing that determines the validity of a suspension of driving privileges is scheduled; or

(C) Prevented the petitioning party from participating in a recorded or reported hearing that determines the validity of a suspension of driving privileges.

(b) Circumstances where a petitioning party moves for a continuance of a hearing or a request that a necessary witness be subpoenaed to a hearing and, due to circumstances beyond the control of the petitioning party:

(A) The necessary witness does not appear at the hearing because the necessary witness was unknown to the petitioning party prior to a recorded or reported hearing that determines the validity of a suspension of driving privileges; or

(B) The necessary witness does not appear at the hearing and could not be served with a subpoena at least 72 hours prior to a recorded or reported hearing that determines the validity of a suspension of driving privileges.

(c) Circumstances beyond the control of a petitioning party that require a continuance of a hearing because documentary evidence referred to or presented at the hearing by a necessary witness was not provided to the petitioning party either before or during the hearing.

(d) Circumstances beyond the control of the agency or OAH that prevented an administrative law judge from conducting a recorded or reported hearing that determines the validity of a suspension of driving privileges.

(e) Circumstances that require the department to issue a notice of amendment to an Implied Consent Combined Report (Form 735-0075) or Implied Consent Blood Test Failure Report (Form 735-0055) and the petitioning party is unable to file a timely request for hearing as set forth in ORS 813.410(3).

(6) "Necessary witness" means a witness whose testimony is essential to support a material fact or position of the petitioning party. The fact or position to be supported by the necessary witness must be within the scope of an implied consent hearing as set forth in ORS 813.410(6).

(7) "Offense" means the alleged Driving While Under the Influence of Intoxicants incident.

(8) "Petitioner" means the person whose driving privileges may be suspended.

(9) "Petitioning Party" means the petitioner or the petitioner's attorney.

(10) "Received by DMV" means:

(a) Personally delivered to DMV Headquarters. 1905 Lana Ave. NE, Salem, OR;

(b) Delivered by mail to DMV Headquarters, 1905 Lana Ave. NE, Salem, OR 97314;

(c) Received by facsimile machine at telephone number (503) 945-5521; or

(d) Received by electronic mail via the implied consent hearing request form provided on DMV's website – OregonDMV.com.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; MV 10-1985, f. 9-19-85, ef. 9-20-85; Administrative Renumbering 3-1988, Renumbered from 735-021-0100; MV 2-1991, f. & cert. ef. 3-18-91; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1997, f. & cert. ef. 9-18-97; DMV 21-2002, f. & cert. ef. 11-18-02; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 14-2007, f. & cert. ef. 12-24-07; DMV 24-2010, f. 12-22-10, cert. ef. 1-1-11

735-090-0020
Hearings Requests

(1) A hearing request must be in writing. The request should include:

(a) Petitioner's full name;

(b) Petitioner's complete mailing address;

(c) Date of arrest;

(d) Petitioner's Oregon driver license number;

(e) Petitioner's date of birth;

(f) Telephone number where petitioner can be called between 8 a.m. and 5 p.m.;

(g) Brief statement of the issues the petitioner proposes to raise at the hearing; and

(h) Dates and times the petitioner or attorney cannot participate in a hearing.

(2) A petitioner may request an in-person hearing either as part of the hearing request or as an amendment to the hearing request. The request for in-person hearing or any amendment to the request for an in-person hearing must be made within the time requirements specified in section (4), (5) or (6) of this rule. A peti-

tioner may request an in-person hearing when submitting a late hearing request but may not amend the request.

(3) A request for an interpreter for a non-English speaking petitioner must be part of the hearing request.

(4) To be considered timely, a hearing request submitted pursuant to ORS 813.132 or 813.410(3), for failure of a breath test or refusal of a breath, blood or urine test, must be received by DMV by the tenth day following the arrest of the petitioner. Oregon Rules of Civil Procedure 10A (ORCP 10A) will be used to determine the computation of time.

(5) To be considered timely, a hearing request submitted pursuant to ORS 813.410(3), for failure of a blood test, must be received by DMV by the tenth day from the date DMV sends notice of suspension. ORCP 10A will be used to determine the computation of time.

(6) DMV will issue a final order denying an untimely hearing request unless the petitioning party demonstrates that the request should be granted under ORS 813.440.

[Publications: Publications referenced are available from the agency.]
Stat. Auth: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; MV 10-1985, f. 9-19-85, ef. 9-20-85; Administrative Renumbering 3-1988, Renumbered from 735-021-0110; MV 2-1991, f. & cert. ef. 3-18-91; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 3-1996, f. & cert. ef. 7-26-96; DMV 21-2002, f. & cert. ef. 11-18-02; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 14-2007, f. & cert. ef. 12-24-07; DMV 24-2010, f. 12-22-10, cert. ef. 1-1-11; DMV 10-2014, f. & cert. ef. 9-19-14

735-090-0040
Document Submission Requirements

(1) The following documents, sent by police agencies, shall be received by DMV by the tenth day following arrest. These documents are:

(a) Original and a copy of the Implied Consent Combined Report, Form 735-0075, and if applicable, the CDL Implied Consent Addendum, Form 735-0075A; and

(b) The Oregon driver license or permit if confiscated.

(2) An Implied Consent Combined Report, Form 735-0075, and if applicable, a CDL Implied Consent Addendum, Form 735-0075A, not received within ten days following the arrest and failure of the breath test or refusal of a breath, blood or urine test, are inadmissible at any hearing conducted within 30 days following the arrest pursuant to ORS 813.132 or 813.410, but are admissible in a hearing authorized under ORS 813.440.

(3) The original and a copy of the Implied Consent Blood Test Failure Report, Form 735-0055, sent by police agencies, shall be received by DMV by the 45th day following arrest. If form 735-0055 is not received within 45 days following the date of arrest, no license suspension action will be taken by DMV.

[ED. NOTE: Forms referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.131, 813.132, 813.410 & 813.440
Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; MV 10-1985, f. 9-19-85, ef. 9-20-85; Administrative Renumbering 3-1988, Renumbered from 735-021-0120; MV 2-1991, f. & cert. ef. 3-18-91; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 3-1996, f. & cert. ef. 7-26-96; DMV 7-1997, f. & cert. ef. 9-18-97; DMV 21-2002, f. & cert. ef. 11-18-02; DMV 23-2004, f. & cert. ef. 11-17-04

735-090-0042
Police Officer Request for an In-Person Hearing

A police officer may request that any hearing required under ORS 813.410 be an in-person hearing. The request may be made by:

(1) Marking the box provided on the Implied Consent Combined Report, Form 735-0075, or Implied Consent Blood Test Failure Report, Form 735-0055; or

(2) Submitting a separate written request to DMV Hearings Case Management Unit. The request may be:

(a) Personally delivered to DMV Headquarters. 1905 Lana Ave. NE, Salem, OR;

(b) Delivered by mail to DMV Headquarters, 1905 Lana Ave. NE, Salem, OR 97314; or

(c) Received by facsimile machine at telephone number (503) 945-5521.

(3) To be considered timely, an officer's in-person hearing request submitted pursuant to ORS 813.132 or 813.410(3), for failure of a breath test or refusal of a breath, blood or urine test, must be received by DMV by the tenth day following the arrest of the petitioner. Oregon Rules of Civil Procedure 10A (ORCP 10A) will be used to determine the computation of time.

(4) To be considered timely, a hearing request submitted pursuant to ORS 813.410(3), for failure of a blood test, must be received by DMV by the 45th day following the arrest of the petitioner. ORCP 10A will be used to determine the computation of time.

(5) A police officer may amend the request for an in-person hearing within the time requirement specified in section (3) or (4) of this rule.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: DMV 24-2010, f. 12-22-10, cert. ef. 1-1-11; DMV 10-2014, f. & cert. ef. 9-19-14

735-090-0051
Subpoena of Witness

Under no circumstance will DMV or OAH compel a witness to attend and testify at a hearing that determines the validity of a suspension of driving privileges unless the witness is served with a subpoena at least 72 hours prior to the time of the hearing.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: DMV 23-2004, f. & cert. ef. 11-17-04; DMV 14-2007, f. & cert. ef. 12-24-07

735-090-0066
Witness Information, Requests for Admissions, and Written Interrogatories

(1) The Agency finds that use of the discovery methods listed in OAR 137-003-0566(1)(a), (d) and (e) (names, telephone numbers, and addresses of witnesses expected to testify at the hearing, requests for admission, and written interrogatories respectively) would unduly complicate and interfere with the hearing processes in Implied Consent contested case hearings due to the statutorily mandated timeframe within which these cases must be decided, the volume of cases and need for speed and informality in these hearings. The current alternative procedures for sharing relevant information, including those established in Oregon Administrative Rule, chapter 735, division 90, are sufficient to ensure fundamental fairness in Implied Consent contested case hearings.

(2) The witness information, requests for admission, and interrogatories described in OAR 137-003-0566(1)(a), (d) and (e) do not apply to the Agency's Implied Consent contested case hearings and may not be used in such hearings.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: DMV 13-2013 f. & cert. ef. 9-24-13

735-090-0101
Hearing Location

(1) Except as provided in section (2) of this rule, an in-person hearing will be held either in the county where the alleged offense occurred or at any place within 100 air miles of the place where the offense is alleged to have occurred. There is no location restriction when a hearing is conducted by telephone or other two-way electronic communication device.

(2) If there is a mutual agreement between the petitioning party and DMV, an in-person hearing may be held at a location outside of either the county where the alleged offense occurred or 100 air miles of the place where the offense is alleged to have occurred.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: DMV 23-2004, f. & cert. ef. 11-17-04; DMV 2-2007, f. & cert. ef. 1-24-07; DMV 24-2010, f. 12-22-10, cert. ef. 1-1-11

735-090-0110
Just Cause Petitions

Persons wishing to have the agency consider, under ORS 813.440, their grounds for not filing a timely hearing request or for not attending a hearing shall include the following in their petition:

(1) The information specified in OAR 735-090-0020(1);

(2) The date and DMV case number of the defaulted hearing, when applicable; and

(3) A statement of the circumstances relied upon for just cause and an explanation of how those circumstances caused the failure to file a timely hearing request or to appear at a scheduled hearing; and

(4) Any other documentation relied upon.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 813.410 & 813.440
Stats. Implemented: ORS 813.410
Hist.: MV 10-1985, f. 9-19-85, ef. 9-20-85; Administrative Renumbering 3-1988, Renumbered from 735-021-0165; MV 2-1991, f. & cert. ef. 3-18-91; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 21-2002, f. & cert. ef. 11-18-02

735-090-0120
Police Officer Unable to Appear at Hearing

(1) If a subpoenaed police officer is unable to appear at a hearing under ORS 813.410 due to an officer's illness, vacation or official duty conflicts, a hearing will be re-scheduled as soon as practicable.

(2) DMV will rescind the suspension of the petitioner's driving privileges pending the outcome of the hearing conducted pursuant to ORS 813.440(1)(d).

(3) The DMV or OAH may receive notification of an officer's illness, vacation or official duty conflict before or after a scheduled hearing. Post hearing notification must be received by the DMV or OAH no later than 10 days after the hearing. Verification must be to the satisfaction of the DMV.

(4) An official duty conflict exists if the subpoenaed police officer is unable to attend the hearing due to any of the following conditions:

(a) Community caretaking pursuant to ORS 133.033;

(b) Court appearance on behalf of the police officer's agency;

(c) Participating in employer approved training; or

(d) Duty-related physical incapacity.

(5) Nothing in this rule prevents the taking of evidence at the time of the originally scheduled hearing and continuing the hearing for the testimony of the unavailable police witness(es).

Stat. Auth.: ORS 183.341, 184.616, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1997, f. & cert. ef. 9-18-97; DMV 14-2007, f. & cert. ef. 12-24-07; DMV 30-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 10-2014, f. & cert. ef. 9-19-14

735-090-0125
Original Hearing

The date of the original hearing, as used in ORS 813.440(1)(f), is the initial date that OAH scheduled a hearing to be held for a particular case, regardless of whether a hearing actually took place on that date.

Stat. Auth.: ORS 183.341, 184.616, 813.410 & 813.440
Stats. Implemented: ORS 813.410 & 813.440
Hist.: DMV 30-2009, f. 12-22-09, cert. ef. 1-1-10

735-090-0130
Error of the Department

In accordance with the definition of "Error of the Department" specified in OAR 735-090-0000(2), in a hearing that determines the validity of a suspension of driving privileges under ORS 813.410, if hearsay evidence is used to establish the required elements under 813.410(6) and a petitioning party presents substantial evidence that contradicts the hearsay evidence, DMV will rescind the suspension and OAH will continue the hearing pursuant to 813.440(1)(c) and subpoena the hearsay witness to the continued hearing.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stat. Implemented: ORS 813.410 & 813.440
Hist.: DMV 11-2004(Temp), f. & cert. ef. 5-24-04 thru 11-19-04; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 14-2007, f. & cert. ef. 12-24-07

DIVISION 100

APPROVAL/DESIGNATIONS

735-100-0000
Authority for Administrative Rules

Administrative Rules covering vehicle safety equipment are promulgated under the Oregon Transportation Commission's authority as set forth in ORS 184.616, and under authority of other statutes of the Oregon Vehicle Code that require or are relevant to adoption of the specific rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.811, 184.815, 184.816 & 184.818

Stats. Implemented: ORS 815.030

Hist.: MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-160-000

735-100-0010
Equipment Compliance and Approval

(1) The Automotive Manufacturers Equipment Compliance Agency, Inc. (AMECA) is designated an approval authority for the Transportation Safety Division of the Oregon Department of Transportation (Transportation Safety).

(2) The AMECA's Equipment Compliance Program may be used by manufacturers for verifying their equipment items meet the appropriate Transportation Safety adopted standards. This does not preclude other manufacturer self-certification methods of federally regulated items.

(3) AMECA's accredited testing laboratories shall be recognized as approved by Transportation Safety.

(4) AMECA's Notice of Equipment Compliance for an equipment item, or the showing of the item on an AMECA's Compliance Listing shall be acceptable proof to Transportation Safety that the item meets equipment standards. All equipment must be tested to comply with standards adopted by Transportation Safety. This does not preclude testing to more stringent standards.

(5) The review of manufacturer's test results through the AMECA's program shall be an acceptable procedure to verify equipment compliance to standards.

(6) Transportation Safety may request a manufacturer's test results for conformance review, and may consider testing or retesting at any time there is reason to believe an item does not meet established standards.

(7) Transportation Safety may request the testing laboratory name, address, contact person and telephone number from the manufacturer to verify test procedures and test results if there is reason to believe an item does not meet established standards.

Stat. Auth.: ORS 184.616, 815.010, 815.030 & 816.010

Stats. Implemented: ORS 815.010, 815.030 & 816.010

Hist.: MV 3-1987, f. & ef. 4-16-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0010; DMV 12-1994, f. & cert. ef. 10-6-94; DMV 3-1997, f. & cert. ef. 1-21-97

735-100-0020
Bus Safety Lights Used on Church Buses

(1) The Transportation Safety Division of the Department of Transportation (Transportation Safety) adopts the following requirements for eligibility for a permit to allow use of bus safety lights on a church bus, and for the requirements for use of the lights.

(2) For purposes of this rule, the following definitions apply:

(a) "Church bus" means any bus that is operated by a religious organization while the bus is being used to transport children to and from religious services or an activity or function authorized by the religious organization.

(b) "Bus safety lights" means the red and amber alternately flashing lights described in ORS 816.260.

(c) "Qualified person" means:

(A) Any Department of Education school bus inspector;

(B) A currently employed mechanic or inspector of a school district or of a contractor engaged in a school bus fleet operation;

(C) A competent mechanic, defined as anyone receiving a substantial portion of their income repairing motor vehicles, and who is currently active at this work; or

(D) A person designated for this purpose by Transportation Safety.

(3) A church bus will be issued a permit allowing use of bus safety lights upon receipt of a written request submitted to Transportation Safety. The request must be accompanied by a statement signed by a qualified person stating that the vehicle meets the following requirements:

(a) That flashing amber and red lights have been installed and operate in accordance with requirements adopted by the Department of Education in OAR 581-053-0517(23)(k);

(b) That the vehicle is painted National School Bus Yellow; and

(c) That the vehicle is identified in the following manner:

(A) The church bus bears the wording "CHURCH BUS" in black letters at least eight inches high and of proportionate width, on both the front and rear of the body. This lettering shall be placed as high on the bus body as possible without impairment of its visibility; and

(B) A warning sign, calling attention to the bus safety light stop law is installed on the rear of the bus. The sign shall be centered on the back of the bus and occupy the space, beltline high, directly beneath the upper window in the rear door. Signs on transit type buses shall be in approximately the same area. A warning sign shall consist of decals of white reflectorized letters mounted on a flat black background that is nine inches by 30 inches, with lettering as shown in the following diagram:

(4) Operation of church bus flashing lights shall be in accordance with requirements adopted by the Department of Education in OAR 581-053-0015(7) and with ORS 811.515.

(5) The bus safety light system must be checked at least once a year by a qualified person as defined in section (2) of this rule. This person must provide the religious organization with a signed statement that the system is operating properly. The religious organization must retain such statements in their records for the vehicle.

(6) The approval permit, or a copy may be carried in the bus, to show as verification of Transportation Safety approval to use the light system on the vehicle.

(7) A permit issued under this rule is not transferable and is subject to cancellation with 30 days notice if Transportation Safety determines that there is any violation of this rule.

Stat. Auth.: ORS 184.616, 811.515, 816.260, 818.260 & 818.270
Stats. Implemented: ORS 818.260
Hist.: MV 12-1986, f. & ef. 8-22-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0130

DIVISION 102

OCCUPANT/RIDER PROTECTION

735-102-0000
Seat Belt Assemblies and Seat Belt Assembly Anchorages

The Transportation Safety Division of the Oregon Department of Transportation (Transportation Safety) adopts:

(1) **Federal Motor Vehicle Safety Standard (FMVSS) Number 208**, Occupant Crash Protection in Passenger Cars, Multipurpose Passenger Vehicles, Trucks and Buses regarding location and type of seat belts to be used in motor vehicles. This standard is as found in the **Code of Federal Regulations, Title 49, Part 571**.

(2) **FMVSS Number 209, Seat Belt Assemblies** regarding seat belt assemblies used in motor vehicles. This standard is as found in the **Code of Federal Regulation, Title 49, Part 571**.

(3) **FMVSS Number 210, Seat Belt Assembly Anchorages**, regarding anchorages used with seat belt assemblies in motor vehicles. This standard is as found in the **Code of Federal Regulations, Title 49, Part 571**.

Stat. Auth.: ORS 184.616, 815.030 & 815.055
Stats. Implemented: ORS 815.055
Hist.: MV 8-1978, f. & ef. 11-16-78; MV 6-1979, f. & ef. 10-18-79; Renumbered from 735-080-0006; MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0060; DMV 12-1994, f. & cert. ef. 10-6-94

735-102-0010
Child Safety Systems

(1) The Transportation Safety Division of the Oregon Department of Transportation (Transportation Safety) adopts **Federal Motor Vehicle Safety Standard (FMVSS) Number 213, Child Restraint Systems**, as found in the **Code of Federal Regulations, Title 49, Part 571**. For purposes of this rule, Child Safety Systems and Child Restraint Systems shall be considered one and the same.

(2) Child safety systems, seat belt assemblies, anchorages, and other related devices that conform to federal standards, including labeling by the manufacturer to certify compliance, will be considered acceptable for use in vehicles. Use of such devices shall comply with requirements of the federal standard, and instructions of the manufacturer.

(3) Transportation Safety may request a manufacturer's test results for conformance review, and may consider testing or retesting at any time there is reason to believe an item does not meet established standards.

Stat. Auth.: ORS 184.616, 815.030 & 815.055
Stats. Implemented: ORS 815.055
Hist.: MV 6-1983, f. 10-5-83, ef. 1-1-84; Administrative Renumbering 3-1988, Renumbered from 735-080-0007; MV 9-1986, f. & ef. 6-20-86; DMV 12-1994, f. & cert. ef. 10-6-94

735-102-0030
Bicycle, Skateboard, Scooter and In-Line Skate Protective Headgear (Helmets)

(1) The Transportation Safety Division of the Oregon Department of Transportation adopts the mandatory national safety standard for bicycle helmets of the Consumer Product Safety Commission 16 CFR Part 1203, and the voluntary standards and specifications of the Snell Memorial Foundation (SNELL) B-90 and B-95, and the American Society for Testing and Materials (ASTM) F-1447-02, F-1492-00 and F-1898-01 for minimum performance criteria and test procedures for protective headgear for bicyclists, skateboarders, scooter riders and in-line skaters.

(2) The purpose of these standards is to reduce deaths and injuries by providing minimum acceptable levels of head protection.

(3) Protective headgear for bicyclists must be clearly labeled as required by federal law certifying compliance with U.S. CPSC standards. Additional certifications may be included as appropriate for specific headgear use.

Stat. Auth.: ORS 184.616, 184.619 & 815.052
Stats. Implemented: ORS 815.052
Hist.: DMV 8-1994, f. & cert. ef. 8-19-94; DMV 13-1994, f. & cert. ef. 10-20-94; DMV 12-2006, f. & cert. ef. 9-22-06

DIVISION 104

WINDOWS AND GLAZINGS

735-104-0000
Glazing Materials

The Transportation Safety Division of the Oregon Department of Transportation (Transportation Safety) adopts **Federal Motor Vehicle Safety Standard (FMVSS) Number 205, Glazing Materials**, regarding glazing materials that may be used in vehicle windows and windshields. This standard is as found in the **Code of Federal Regulations, Title 49, Part 571**.

Stat. Auth.: ORS 184.616, 815.030 & 815.040
Stats. Implemented: ORS 815.040
Hist.: MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-162-0000; DMV 12-1994, f. & cert. ef. 10-6-94

DIVISION 106

BRAKE SYSTEMS/FLUIDS/RELATED DEVICES

735-106-0000
Motor Vehicle Brake Fluids

(1) The Transportation Safety Division of the Oregon Department of Transportation (Transportation Safety) adopts **Federal Motor Vehicle Safety Standard (FMVSS) Number 116, Motor Vehicle Brake Fluids**, in regard to brake fluids for use in motor vehicles. This standard is as found in the **Code of Federal Regulations, Title 49, Part 571**.

(2) Motor vehicle brake fluids in compliance with this rule constitutes "hydraulic brake fluid" for purposes of ORS 815.065 and 815.085.

Stat. Auth.: ORS 184.616, 815.030 & 815.065
Stats. Implemented: ORS 815.065
Hist.: MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-163-0000; DMV 12-1994, f. & cert. ef. 10-6-94

DIVISION 108

LIGHTING EQUIPMENT

735-108-0000
Lamps, Reflective Devices and Associated Equipment for Motor Vehicles

(1) Transportation Safety adopts FMVSS Number 108, Lamps, Reflective Devices and Associated Equipment, in regard to such equipment and devices used in motor vehicles. This standard is as found in the Code of Federal Regulations, Title 49, Part 571, 1995 Edition, available from Transportation Safety.

(2) FMVSS 108 specifies requirements for the following original and replacement lamps, reflective devices, and associated equipment for motor vehicles:

(a) Headlamps;
(b) Taillamps;
(c) Stoplamps;
(d) High-mounted stoplamp;
(e) License plate lamp;
(f) Parking lamps;
(g) Reflex reflectors;
(h) Intermediate side reflex reflectors;
(i) Intermediate side marker lamps;
(j) Identification lamps;
(k) Clearance lamps;
(l) Side-marker lamps;
(m) Backup lamps;
(n) Turn signal lamps, turn signal operating unit, and turn signal flasher unit;
(o) Vehicular hazard warning signal operation unit and flasher unit; and
(p) Retroreflective sheeting.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040 & 816.050
Stats. Implemented: ORS 816.010
Hist.: MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-164-0000; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0005
Definitions Relevant to Division 108

For purposes of OAR 735-108-0000 through 735-108-0110, the following definitions shall apply:

(1) Backup lamp in compliance with FMVSS 108 constitutes "back-up lights" for purposes of ORS 811.515, 816.110, and 816.350.

(2) Clearance lamps in compliance with FMVSS 108 constitutes "clearance lights" for purposes of ORS 811.515, 816.200, and 816.320.

(3) "FMVSS" means Federal Motor Vehicle Safety Standard.

(4) Headlamps in compliance with FMVSS 108 constitutes "headlights" for purposes of ORS 811.515, 816.050, 816.320, and 816.350.

(5) Identification lamps in compliance with FMVSS 108 constitutes "identification lights" for purposes of ORS 811.525, 816.210, and 816.320.

(6) License plate lamp in compliance with FMVSS 108 constitutes "registration plate light" for purposes of ORS 816.090, 816.320, and 816.350.

(7) "Lights" means lamps as referenced in FMVSS and SAE standards.

(8) Parking lamps in compliance with FMVSS 108 constitutes "parking lights" for purposes of ORS 811.515 and 816.130.

(9) Reflex reflectors, intermediate side reflex reflectors and retroreflective sheeting in compliance with FMVSS 108 constitutes "reflectors" for purposes of ORS 816.180 and 816.320.

(10) "SAE" means Society of Automotive Engineers.

(11) Side marker lamps and intermediate side marker lamps in compliance with FMVSS 108 constitutes "marker lights" for purposes of ORS 811.515, 816.190, and 816.320.

(12) Stop lamps and high-mounted stoplamp in compliance with FMVSS 108 constitutes "brake lights" for purposes of ORS 811.395, 816.100 and 816.320.

(13) Taillamps in compliance with FMVSS 108 constitutes "taillights" for purposes of ORS 816.080 and 816.320.

(14) "Transportation Safety" means Transportation Safety Division of the Oregon Department of Transportation.

(15) Turn signal lamps, turn signal operating unit and turn signal flasher unit in compliance with FMVSS 108 constitutes "turn signals" for purposes of ORS 811.395, 811.515, 816.120, 816.320, and 816.350.

(16) Vehicular hazard warning lamps, signal operating unit and flasher unit in compliance with FMVSS 108 constitutes "hazard lights" for purposes of ORS 816.240 and 816.350.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030 & 816.010
Stats. Implemented: ORS 816
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0010
Aiming, Wiring and Mounting of Headlights for Motor Vehicles

(1) Transportation Safety adopts aiming, wiring and mounting requirements for motor vehicle headlights.

(2) The preparation for aiming of headlights shall be by one of the following methods:

(a) Mechanical aimer method:

(A) Calibrate the aimer for accuracy according to the instructions of the manufacturer; and

(B) Make compensation for the ground level in the aiming area.

(b) Visual aiming screen method:

(A) Locate the vehicle on a level surface, under normal load condition with the driver behind the steering wheel;

(B) Locate the screen 25 feet in front of the lens of the light;

(C) Adjust the screen to the level of the area on which the vehicle stands;

(D) Align the vehicle with the screen; and

(E) Activate the automatic (air) suspension if the vehicle is so equipped.

(3) Aiming of headlights:

(a) Aim lights according to vehicle manufacturer instructions when vehicle is equipped with self contained aiming devices;

(b) Adjust headlights to a setting of 0-0 when using a mechanical aimer;

(c) Aim the center of the high intensity zone at horizontal and straight ahead vertical for high beam, and aim the top edge of the high intensity zone at horizontal and the left edge at vertical for low beam, when using a visual aiming screen; or

(d) Aim lights according to manufacturer instructions when using other methods developed by vehicle or lighting equipment manufacturers for use on new vehicle and/or headlight designs. These methods are acceptable if they meet federal and/or SAE requirements.

(4) Wire headlights to meet the following:

(a) When headlights are turned on the taillights, clearance lights and marker lights will be illuminated;

(b) When vehicle is parked, the headlights can be turned off but permits parking lights to be turned on; and

(c) Headlights may alternate between high and low beams by means of a switch used at the driver's discretion.

(5) Mount headlights meeting the following:

(a) Securely, at the front on a rigid part of the vehicle other than window glazing;

(b) As far apart and symmetrically about the vertical center line of the vehicle per FMVSS and SAE requirements;

(c) Measure mounting height from ground level to the center of the lens; and

(d) Mount headlights not less than 22 inches nor more than 54 inches high.

Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040, 816.050 & 816.060
Stats. Implemented: ORS 816.010, 816.050, 816.060, 816.070 & 816.230
Hist.: MV 9-1979, f. & ef. 11-9-79; MV 22-1986, f. & ef. 12-16-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0020; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0020
Bus Safety Warning Lights

(1) Transportation Safety adopts SAE Standard J887, School Bus Warning Lamps, August 1987 Edition.

(2) For purposes of this rule, school bus warning lamps in compliance with SAE Standard J887 constitutes "bus safety lights" for purposes of ORS 811.515, 816.260, and 816.350.

(3) Bus Safety Lights shall be identified by the code "W2" in accordance with SAE Standard J759, Lighting Identification Code.

(4) School bus warning lamp types and use also are subject to requirements and specifications established by the Oregon Department of Education.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 816.010 & 816.260
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0020; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0030
360-Degree Warning Lights

(1) Transportation Safety adopts SAE Standard J845, 360 Degree Warning Lamp for Authorized Emergency, Maintenance and Service Vehicles, January 1984 Edition.

(2) For purposes of this rule, a 360-degree warning lamp in compliance with SAE Standard J845 constitutes:

(a) "Police lights" for purposes of ORS 816.250 and 816.350;

(b) "Mail deliver lights" for purposes of ORS 811.515, 816.270, and 816.350;

(c) "Fire department warning lights" for purposes of ORS 816.285 and 816.350;

(d) "Ambulance warning lights" for purposes of ORS 820.350;

(e) "Public Vehicle warning lights" for purposes of ORS 816.280 and 816.350;

(f) "Tow vehicle warning lights" for purposes of ORS 816.280 and 816.350; and

(g) "Weighmaster and motor carrier enforcement officer warning lights" for purposes of ORS 816.280 and 816.350.

(3) 360-degree warning lamps shall be identified by the code "W" in accordance with SAE Standard J759, Lighting Identification Code.

(4) Ambulance warning light types and use also are subject to requirements and specifications established by the Oregon Health Division.

(5) School bus warning lamp types and use also are subject to requirements and specifications established by the Oregon Department of Education.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 811.515, 816.010 & 816.250 - 816.285
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0030; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0040
Flashing Warning Lights

(1) Transportation Safety adopts SAE Standard J595, Flashing Warning Lamps for Authorized Emergency, Maintenance and Service Vehicles, January 1990 Edition.

(2) For purposes of this rule, a flashing warning lamp in compliance with SAE Standard J595 constitutes:

(a) "Police lights" for purposes of ORS 816.250 and 816.350;

(b) "Mail delivery lights" for purposes of ORS 811.515, 816.270, and 816.350;

(c) "Fire department warning lights" for purposes of ORS 816.280 and 816.350;

(d) "Ambulance warning lights" for purposes of ORS 820.350;

(e) "Public vehicle warning lights" for purposes of ORS 816.280;

(f) "Tow vehicle warning lights" for purposes of ORS 816.280 and 816.350; and

(g) "Weighmaster and motor carrier enforcement officer warning lights" for purposes of ORS 816.280 and 816.350.

(3) Flashing warning lamps shall be identified by the code "W" in accordance with SAE Standard J759, Lighting Identification Code.

(4) Ambulance warning lamp types and use also are subject to requirements and specifications established by the Oregon Health Division.

(5) School bus warning lamp types and use also are subject to requirements and specifications established by the Oregon Department of Education.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 811.515, 816.010 & 816.250 - 816.285
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0040; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0045
Gaseous Discharge Warning Lights

(1) Transportation Safety adopts SAE Standard J1318, Gaseous Discharge Warning Lamp For Authorized Emergency, Maintenance and Service Vehicles, April 1986 Edition. Gaseous discharge warning lamps are often referred to as "strobe" lights.

(2) For purposes of this rule, a gaseous discharge warning lamp in compliance with SAE Standard J1318 constitutes:

(a) "Police lights" for purposes of ORS 816.250 and 816.350;

(b) "Mail delivery lights" for purposes of ORS 811.515, 816.270, and 816.350;

(c) "Fire department warning lights" for purposes of ORS 816.280 and 816.350; and

(d) "Ambulance warning lights" for purposes of ORS 820.350.

(3) Gaseous discharge warning lamps shall be identified by the following codes in accordance with SAE Standard J579, Lighting Identification Codes, and SAE Standard J1318:

(a) For 360-degree warning lamps, the identification codes are:

(A) W5-1. Class 1 primary warning lamps for use on authorized emergency vehicles responding to emergency situations;

(B) W5-2. Class 2 primary warning lamps for use on authorized maintenance and service vehicles;

(C) W5-3. Class 3 primary warning lamps for use on authorized vehicles for identification.

(b) For directional warning lamps the identification code is W5.

(4) Ambulance warning lamp types and use also are subject to requirements and specifications established by the Oregon Health Division.

(5) School bus warning lamp types and use also are subject to requirements and specifications established by the Oregon Department of Education.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 811.515, 816.010 & 816.250 - 816.285
Hist. MV 5-1991, f. & cert. ef. 6-18-91; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0050
Spot Lights

(1) Transportation Safety adopts SAE Standard J591, Spot Lamps, May 1989 Edition.

(2) For purposes of this rule, spot lamps in compliance with SAE Standard J591 constitutes "spot lights" for purposes of ORS 811.515, 816.170, and 816.350.

(3) A spot lamp provides a substantially parallel beam of light which can be aimed in any direction by the user.

(4) The beam pattern shall be well defined and round or oval in shape.

(5) Spot lamps shall be identified by the code "O" in accordance with SAE Standard J579, Lighting Identification Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040 & 816.170
Stats. Implemented: ORS 811.515, 816.010 & 816.170
Hist.: MV 63, f. 10-14-75,ef. 11-11-75; MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0090; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0060
Auxiliary Driving Lamps for Motor Vehicles

(1) Transportation Safety adopts SAE Standard J581, Auxiliary Driving lamps, June 1989 Edition.

(2) For purposes of this rule, auxiliary driving lamps in compliance with SAE Standard J581 constitutes "passing lights" for purposes of ORS 811.515 and 816.070.

(3) Auxiliary driving lamps supplement the upper beam of a standard headlamp system.

(4) Auxiliary driving lamps shall be identified by the code "Y" in accordance with SAE Standard J759, Lighting Identification Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 816.010, 816.040 & 816.060
Stats. Implemented: ORS 811.515, 816.010 & 816.060
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0060; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0065
Mounting, Wiring and Aiming of Auxiliary Driving Lamps for Motor Vehicles

(1) Transportation Safety adopts the mounting requirements for motor vehicle auxiliary driving lamps as follows:

(a) If one lamp is installed, mount the lamp on the left front side of the motor vehicle;

(b) If two lamps are installed, mount the lamps symmetrically around the front centerline of the motor vehicle;

(c) Mount lamps not less than 16 inches (40.6 cm) nor more than 42 inches (106.7 cm) above the level ground;

(d) Measure mounting height from ground level to the center of the lens of the lamp;

(e) Do not mount the lamps so they interfere with required motor vehicle lighting; and

(f) Do not mount the lamps higher than the motor vehicle headlight system.

(2) Transportation Safety adopts the wiring requirements for motor vehicle auxiliary driving lamps as follows:

(a) Auxiliary driving lamps shall be wired so they can only come on when the motor vehicle high beam headlights are on; and

(b) A switch shall be installed so the auxiliary driving lamps can be turned off or on leaving the height beam of the headlights on; and

(c) A steady burning indicator light shall be wired so it comes on when the front fog lamps are turned on and mounted in a location it is readily visible to the driver.

(3) Transportation Safety adopts the aiming requirements for motor vehicle auxiliary driving lamps as follows:

(a) Adjust lamps to a setting of 0-0 when using a mechanical aimer; or

(b) When using a visual aiming screen, aim the center of the high intensity beam straight ahead of the vertical and horizontal axis at a distance of 25 feet (7.6 m) from the lens.

Stat. Auth.: ORS 184.616 & 816.060
Stats. Implemented: ORS 816.060
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0070
Fog Lamps for Motor Vehicles and Trailers

(1) Transportation Safety adopts SAE Standard J583, Front Fog Lamps, May 1981 Edition:

(a) For purposes of this rule, front fog lamps in compliance with SAE Standard J583 constitute "fog lights" for purposes of ORS 811.515 and 816.230;

(b) Front fog lamps supplement the lower beam of a standard headlamp system used on motor vehicles during limited visibility conditions of rain, snow, dust or fog; and

(c) Front fog lamps shall be identified by the code "F" in accordance with SAE Standard J759, Light Identification Code.

(2) Transportation Safety adopts SAE Standard J1319, Fog Tail Lamp (Rear Fog Light) Systems, August 1987 Edition.

(a) For purposes of this rule, fog tail lamp (rear fog light) systems in compliance with SAE Standard J1319 constitutes "fog lights" for purposes of ORS 811.515 and 816.230;

(b) Rear fog lights provide a steady burning red light of higher intensity than standard tail lights on a vehicle and are only used during limited visibility conditions of rain, dust, snow or fog; and

(c) Rear fog lights shall be identified by the code "F2" in accordance with SAE Standard J759, Lighting Identification Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 816.010 & 816.230
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0070; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0073
Mounting, Wiring and Aiming of Front Fog Lamps for Motor Vehicles

(1) Transportation Safety adopts the mounting requirements for front fog lamps as follows:

(a) If one lamp is installed, mount the lamp on the left side of the motor vehicle;

(b) If two lamps are installed, mount the lamps symmetrically around the front centerline of the motor vehicle;

(c) Mount the lamps not less than 12 inches (30.5 cm) nor more than 30 inches (76.2 cm) above the level ground;

(d) Measure the mounting height from ground level to the center of the lens of the lamp;

(e) Do not mount the lamps so they interfere with required motor vehicle lighting; and

(f) Do not mount the lamps higher than the motor vehicle headlight system.

(2) Transportation Safety adopts the wiring requirements for motor vehicle front fog lamps as follows:

(a) Front fog lamps shall be wired so they can only come on when the motor vehicle low beam headlights are on; and

(b) A switch shall be installed so front fog lamps can be turned off or on leaving the low beam of the headlights on; and

(c) A steady burning indicator light shall be wired so it comes on when the front fog lamps are turned on and mounted in a location it is readily visible to the driver.

(3) Transportation Safety adopts the aiming requirements for motor vehicle front fog lamps as follows:

(a) Adjust lamps to a setting of 0-0 when using a mechanical aimer; or

(b) When using a visual aiming screen, the beam is to be centered laterally about the vertical axis and aim the top of the beam 4 inches (100 mm) below horizontal axis at a distance of 25 feet (7.6 m) from the lens.

Stat. Auth.: ORS 184.616 & 816.230
Stats. Implemented: ORS 816.230
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0076
Mounting, Wiring and Aiming of Rear Fog Lamps for Motor Vehicles and Trailers

(1) Transportation Safety adopts the mounting requirements for rear fog lamps as follows:

(a) If one lamp is installed, mount the lamp on the left side of the motor vehicle;

(b) If two lamps are installed, mount the lamps symmetrically around the rear centerline of the motor vehicle;

(c) Mount the lamps the same height above the level ground as taillights are mounted;

(d) Measure the mounting height from ground level to the center of the lens of the lamp; and

(e) Do not mount the lamps so they interfere with required motor vehicle lighting.

(2) Transportation Safety adopts the wiring requirements for motor vehicle rear fog lamps as follows:

(a) Rear fog lamps shall be wired so they can only come on when the motor vehicle low beam headlights are on;

(b) A switch shall be installed so rear fog lamps can be turned off or on leaving the low beam of the headlights on; and

(c) A steady burning indicator light shall be wired so it comes on when the rear fog lamps are turned on and mounted in a location it is readily visible to the driver.

(3) Transportation Safety adopts the aiming requirement for motor vehicle rear fog lamp through a horizontal angle from 45 degrees to the left and right of the center of the lamp.

Stat. Auth.: ORS 184.616 & 816.230
Stats. Implemented: ORS 816.230
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0080
Auxiliary Low Beam Lamps for Motor Vehicles

(1) Transportation Safety adopts SAE Standard J582, Auxiliary Low Beam Lamps, September 1984 Edition.

(2) For purposes of this rule, auxiliary low beam lamps in compliance with SAE Standard J582 constitutes "auxiliary lights" for the purposes of ORS 811.515 and 816.060.

(3) Auxiliary low beam lamps supplement the low beam of a standard headlamp system.

(4) Auxiliary low beam lamps shall be identified by the code "Z" in accordance with SAE Standard J759, Lighting Identification Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 811.515, 816.010 & 816.060
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0080; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0085
Mounting, Wiring and Aiming of Auxiliary Low Beam Lamps for Motor Vehicles

(1) Transportation Safety adopts the mounting requirements for auxiliary low beam lamps as follows:

(a) If one lamp is installed, mount the lamp on the left side of the motor vehicle;

(b) If two lamps are installed, mount the lamps symmetrically around the front centerline of the motor vehicle;

(c) Mount the lamps not less than 24 inches (61 cm) nor more than 42 inches (106.7 cm) above the level ground;

(d) Measure the mounting height from ground level to the center of the lens of the lamp;

(e) Do not mount the lamps so they interfere with required motor vehicle lighting; and

(f) Do not mount the lamps higher than the motor vehicle headlight system.

(2) Transportation Safety adopts the wiring requirements for motor vehicle auxiliary low beam lamps as follows:

(a) Auxiliary low beam lamps shall be wired so they can only come on when the motor vehicle low beam headlights are on;

(b) A switch shall be installed so lamps can be turned off when only use of the low beam of the headlight system is required or when high beam of the headlight light system is being used; and

(c) A steady burning indicator lights shall be wired so it comes on when the auxiliary low beam lamps are on and mounted in a location it is readily visible to the driver.

(3) Transportation Safety adopts the aiming requirements for motor vehicle front fog lamps as follows:

(a) Adjust lamps to a setting of 0-0 when using a mechanical aimer; or

(b) When using a visual aiming screen, the lamp or lamps shall be aimed with:

(A) The left edge of the high intensity zone of the beam one inch (25 mm) above horizontal at a distance of 25 feet (7.6 mm) from the lens; and

(B) The top edge of the high intensity zone of the beam five inches (130 mm) left of vertical at a distance of 25 feet (7.6 mm) from the lens.

Stat. Auth.: ORS 184.616 & 816.060
Stats. Implemented: ORS 816.060
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0090
Lamps, Reflective Devices and Associated Equipment for Motorcycles and Mopeds

(1) Transportation Safety adopts FMVSS Number 108, Lamps, Reflective Devices and Associated Equipment, in regard to such equipment and devices required for usage on motorcycles and mopeds, as found in the Code of Federal Regulations, Title 49, Part 571, October 1994 Edition.

(2) FMVSS 108 specifies requirements for the following original and replacement lamps, reflective devices and associated equipment:

(a) Headlamps;

(b) Taillamps;

(c) Stoplamps;

(d) License plate lamp;

(e) Reflex reflectors; and

(f) Turn signal lamps, turn signal operating unit and turn signal flasher unit.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040 & 816.050.
Stats. Imp.: ORS 814.320, 816.010 & 816.050
Hist.: MV 1-1987, f. & ef. 2-17-87; Administrative Renumbering 3-1988, Renumbered from 735-164-0090; DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0100
Motorcycle Auxiliary Front Lamps

(1) Transportation Safety adopts SAE Standard J1306, Motorcycle Auxiliary Front Lamps, June 1989 Edition.

(2) For purposes of this rule, motorcycle auxiliary front lamps in compliance with SAE Standard J1306 constitutes "auxiliary lights" for purposes of ORS 811.515 and 816.060.

(3) Motorcycle auxiliary front lamps supplement either the lower or upper beam of a standard motorcycle headlamp system.

(4) Motorcycle auxiliary front lamps shall be identified by the code "C" in accordance with SAE Standard J759, Lighting Identification Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040 & 816.060
Stats. Implemented: ORS 816.060
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0110
Mounting, Wiring and Aiming of Motorcycle Auxiliary Front Lamps

(1) Transportation Safety adopts the mounting requirements for motorcycle auxiliary front lamps as follows:

(a) If one lamp is installed, mount the lamp on the left front side of the motorcycle;

(b) If two lamps are installed, mount the lamps symmetrically around the front centerline of the motorcycle;

(c) Mount lamps not less than 16 inches (40.6 cm) nor more the 42 inches (106.7 cm) above the ground;

(d) Measure mounting height from ground level to the center of the lens of the lamp; and

(e) Do not mount the lamps higher than the motorcycle headlight.

(2) Transportation Safety adopts the wiring requirements for motorcycle auxiliary front lamps as follows:

(a) The lamp shall be wired so it comes on with the motorcycle headlight;

(b) The lamp may be wired so it is on with either the low or high beam of the motorcycle headlight;

(c) A switch shall be installed so the lamp can be turned off when only use of the low beam of the headlight is required; and

(d) A steady burning indicator light shall be wired and mounted in a location it is readily visible to the driver and be on when the motorcycle auxiliary front lamps are is use.

(3) Transportation Safety adopts the aiming requirements for motorcycle auxiliary front lamps as follows:

(a) Adjust lamps to a setting of 0-0 when using a mechanical aimer; or

(b) When using a visual aiming screen, the lamp or lamps shall be aimed with:

(A) The left edge of the high intensity zone of the beam at a vertical line straight ahead of the lamp center; and

(B) The top edge of the high intensity zone at the level of the lamp center at a distance of 25 feet (7.6 m) from the lens.

Stat. Auth.: ORS 184.616, 815.030, 816.010, 816.040 & 816.060
Stats. Implemented: ORS 816.060
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

735-108-0120
Lamps, Reflective Devices and Associated Equipment for Use on Trailers

(1) Transportation Safety adopts FMVSS Number 108, Lamps, Reflective Devices and Associated Equipment, in regard to such equipment and devices used on trailers. This standard is as found in the Code of Federal Regulations, Title 49, Part 571, 1995 Edition, available from Transportation Safety.

(2) FMVSS 108 specifies requirements for the following original and replacement lamps, reflective devices and associated equipment for motor vehicles:

(a) Taillamps;
(b) Stoplamps;
(c) High-mounted stoplamp;
(d) License-plate lamp;
(e) Parking lamps;
(f) Reflex reflectors;
(g) Intermediate side reflex reflectors;
(h) Intermediate side marker lamps;
(i) Identification lamps;
(j) Clearance lamps;
(k) Side-marker lamps;
(l) Backup lamps;
(m) Turn signal lamps, turn signal operating unit, and turn signal flasher unit;
(n) Vehicular hazard warning signal operation unit and flasher unit; and
(o) Retroreflective sheeting.

Stat. Auth.: ORS 184.616, 815.030, 816.010 & 816.040
Stats. Implemented: ORS 816.010
Hist.: DMV 3-1997, f. & cert. ef. 1-21-97

DIVISION 110

HORNS/SIRENS/SOUND DEVICES

735-110-0000
Definitions Relevant to Sirens

The following definitions shall apply regarding rules and standards for sirens for ambulances and emergency vehicles:

(1) "AAMVA" means the American Association of Motor Vehicle Administrators, 1201 Connecticut Avenue N.W., Suite 910, Washington D.C. 20036.

(2) "ANS" means a standard adopted by the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

(3) "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury or disability.

(4) "**CAC Title 13, Article 8**" means recognized standards for sirens, compiled by the State of California. (Effective 10/31/81)

(5) "Electromechanical Siren" means a siren with a stator and rotor driven by an electric motor.

(6) "Electronic Siren" means a siren with an oscillator, amplifier and speaker.

(7) "Emergency Vehicle" means a vehicle that is equipped with lights and sirens as required under ORS 815.230, 816.310, 820.350, and 820.370 and that is any of the following:

(a) Operated by public police, fire or airport security agencies;

(b) Designated as an emergency vehicle by a federal agency; or

(c) Designated as an emergency vehicle in writing by the Manager of Transportation Safety.

(8) "Hi-Lo" means a nonsiren sound, as defined in this rule.

(9) "Manual" means a siren control that allows the operator to produce a wailing sound by alternately applying and releasing a momentary contact switch.

(10) "Mechanical Siren" means a siren with a stator and rotor driven by a mechanical connection to a moving part of the vehicle or engine.

(11) "Nonsiren Sound" means an audible device, such as a vehicle theft alarm, that produces:

(a) An unvarying sound;

(b) A varying sound that cycles at a rate faster than 400 cycles per minute; or

(c) A discontinuous sound that repeats at rates lower than 90 cycles per minute or higher than 400 cycles per minute.

(12) "SAE" means a standard or recommended practice of the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

(13) "Siren" means a warning device that produces the audible sound readily identified with emergency vehicles.

(14) "Transportation Safety" means the Transportation Safety Division of the Department of Transportation.

(15) "Wail" means a siren sound that is a slow, continuous automatic cycling of increasing and decreasing frequencies and sound levels.

(16) "Yelp" means a siren sound producing a rapid continuous automatic cycling of increasing and decreasing frequencies and sound levels.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030 & 820.370
Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370
Hist.: MV 63, f. 10-14-75, ef. 11-11-75; MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0055

735-110-0010
Siren Standards

(1) Siren rules shall apply to sirens as required on authorized emergency vehicles in accordance with ORS 801.260, 815.230, 820.370, and 820.380.

(2) Sirens that meet requirements of standards in **CAC Title 13, Article 8**, with included ANS and SAE items shall be acceptable for use on ambulances and emergency vehicles.

(3) Sirens may contain the "nonsiren" "Hi-Lo" function, however, this function shall not be used instead of other siren functions or warning sounds.

(4) Ambulances regulated by the Health Services are also subject to siren requirements of that agency. This includes, but is not limited to, the federal specification for the "**Star-of-Life Ambulance**," **KKK-A-1822B, Part 3.14.6**, dated **June 1, 1985**.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 815.030 & 820.370

Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370

Hist.: MV 63, f. 10-14-75, ef. 11-11-75; MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0050

735-110-0020
Approval of Sirens

(1) Sirens that meet requirements of standards in **CAC Title 13, Article 8**, with included ANS and SAE items are acceptable for use on ambulances and emergency vehicles.

(2) Manufacturer methods for verifying siren approval by the Transportation Safety shall be:

(a) A Notice of Equipment Compliance issued by the American Association of Motor Vehicle Administrators (AAMVA). This shall constitute Transportation Safety approval, provided:

(A) The siren is tested to comply with standards adopted by Transportation Safety; and

(B) The Notice of Equipment Compliance is on file with Transportation Safety.

(b) A certificate of approval issued by Transportation Safety.

(3) To request issuance of a certificate of approval by Transportation Safety, a manufacturer shall submit:

(a) A written request; and

(b) A test report from a testing laboratory that shows the siren complies with standards adopted by Transportation Safety.

(4) Testing to Transportation Safety standards shall not preclude testing to more stringent standards.

(5) A certificate of approval issued by Transportation Safety shall show an expiration date. This shall be five years from the date of issuance, except when approval is for a shorter, limited term.

(6) A new test report and a request for renewal of Transportation Safety's approval certificate shall be submitted if continued sale of the siren is desired. The report and request must be submitted at least one month and not more than six months prior to the expiration date.

(7) The manufacturer shall notify Transportation Safety of any changes in identification markings, or of modifications or changes in design, mechanical construction or function that may affect the performance of an approved siren. Tests or testing results of the modified device may be required at the discretion of Transportation Safety.

(8) Even though an AAMVA compliance notice or a Transportation Safety approval certificate has expired, a siren owner may:

(a) Continue to use a siren installed on a vehicle prior to the expiration date;

(b) Transfer a siren between owned vehicles; or

(c) Sell the siren for use on another emergency vehicle.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.010, 815.030 & 820.370
Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370
Hist.: MV 63, f. 10-14-75, ef. 11-11-75; MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-165-0020

735-110-0030
Identification Markings for Sirens

(1) Sirens and components shall be marked as specified in **Part 1023** of **CAC Title 13, Article 8**.

(2) Markings shall include the manufacturer's or vendor's name, initials or lettered trademark, and a model designation.

(3) Markings shall be permanently imprinted into, upon, or attached, in letters and numbers at least 1/8 inch in height.

(4) Markings, with the exception of those on a speaker driver or on speakers within warning lamp housings, shall be in a location so as to be legible when the siren is installed on a vehicle.

(5) Markings shall be on:

(a) Each siren; and

(b) Each major component of an electronic siren, including the speaker, speaker driver, amplifier, and control panel (if separate from the amplifier).

(6) Speaker drivers for electronic sirens shall also be marked to include the rms wattage.

(7) Electronic siren controls shall be marked to indicate each siren function by the words "Manual,""Wail,"and "Yelp" spelled out or abbreviated. The marking "Hi-Lo" may remain on the control panel, even though this function may have been removed, made inoperable or is not used.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 815.230 & 820.370
Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370
Hist.: MV 63, f. 10-14-75, ef. 11-11-75; MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0065

735-110-0040
Siren Test Procedures and Performance Requirements

Siren testing procedures and performance requirements shall be to the specifications of **CAC Title 13, Article 8**, including:

(1) Test Data;
(2) Identification Markings;
(3) Instrumentation for Testing;
(4) Testing Sites;
(5) Microphone and Personnel Stations (locations);
(6) Siren Test Procedures; and
(7) Performance Requirements, with the exception that sirens may contain the "Hi-Lo" function, but not for use in lieu of other siren functions or warning sounds.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 815.230 & 820.370
Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370
Hist.: MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-165-0040

735-110-0050
Siren Mounting

(1) Installation of sirens and speakers on authorized emergency vehicles shall be as follows:

(a) Class A electromechanical and mechanical sirens shall be mounted outside of the vehicle or, between the grille and radiator, or under the hood;

(b) Class B electromechanical and mechanical sirens shall be mounted outside of the vehicle, or between the grille and the radiator;

(c) Class A and B electronic sirens shall be mounted outside of the vehicle or with the horn opening facing forward ahead of the radiator with a relatively open path for the sound to project forward. The horn axis shall be parallel to the vehicle centerline;

(d) Dual speakers for electronic sirens shall be connected in phase and mounted so that the speaker axis is parallel to the vehicle centerline or angled outward not more than ten degrees to the sides;

(e) Electronic siren speakers may be mounted facing forward behind a speaker grille in a lightbar.

(2) Ambulances regulated by the Health Services are also subject to requirements of that agency. This includes the requirements for a **Siren-Public Address System, Part 3.14.6** of **KKK-A-1822B**, the federal specifications for the "Star-of-Life Ambulance."

(3) Mechanical motorcycle sirens that do not operate when the vehicle is stationary shall not be installed on motorcycles manufactured after January 1, 1981.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 815.030, 815.230, 815.370 & 820.380
Stats. Implemented: ORS 815.030, 815.225 - 815.230 & 820.350 - 820.370
Hist.: MV 63, f. 10-14-75, ef. 11-11-75; MV 10-1987, f. & ef. 9-1-87; Administrative Renumbering 3-1988, Renumbered from 735-080-0080

DIVISION 112

COUPLING DEVICES/HITCHES

735-112-0000
Vehicle Coupling Devices, Hitches and Safety Chains

The Transportation Safety Division of the Department of Transportation adopts the **Society of Automotive Engineers Standard, Number SAE J684f**, relating to Automotive Type Trailer Coupling Devices, Hitches and Safety Chains.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 818.150, 818.160 & 818.170
Stats. Implemented: ORS 815.150
Hist.: MV 4-1979, f. & ef. 10-18-79; Renumbered from 735-080-0195; MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0195

DIVISION 114

WARNING DEVICES

735-114-0000
Red Emergency Reflective Warning Devices

The Transportation Safety Division of the Department of Transportation adopts **Federal Motor Vehicle Safety Standard (FMVSS) Number 125, Warning Devices**, in regard to red emergency reflective warning devices (triangles), intended for use as roadside warning devices for stopped or disabled vehicles. This standard is as found in the **Code of Federal Regulations, Title 49, Part 571**.

Stat. Auth.: ORS 184.616, 815.030 & 815.035
Stats. Implemented: ORS 815.070
Hist.: MV 9-1986, f. & ef. 6-20-86; Administrative Renumbering 3-1988, Renumbered from 735-167-0000

735-114-0010
Warning Devices for Stopped or Disabled Vehicles

(1) The Transportation Safety Division of the Department of Transportation adopts federal safety regulations relating to devices that warn approaching traffic of a stopped or disabled vehicle. The devices, including vehicle hazard warning lights, and roadside vehicle warning devices, shall be used and placed as described in the **Code of Federal Regulations, Title 49, Number 392.22**.

(2) The type of roadside vehicle warning devices used shall be as described in the **Code of Federal Regulations, Title 49, Number 393.95(4)(f)** through **393.95(k)**. Bi-directional emergency reflective triangles shall be of the type covered by **Federal Motor Vehicle Safety Standard (FMVSS) Number 125, Warning Devices**.

(3) Vehicles subject to this rule are listed in ORS 811.530(2). School buses and school activity vehicles are also subject to rules and requirements of the Oregon Department of Education related to use of these devices, the types that must be used, and their storage in vehicles.

Stat. Auth.: ORS 184.616, 811.530, 815.035 & 815.285
Stats. Implemented: ORS 815.070
Hist.: MV 13-1983(Temp), f. 10-14-83, ef. 10-15-83; MV 22-1983, f. 12-30-83, ef. 1-1-84; Administrative Renumbering 3-1988, Renumbered from 735-080-008; MV 9-1986, f. & ef. 6-20-86

735-114-0020
Slow-Moving Vehicle Emblems

The Transportation Safety Division of the Department of Transportation adopts the **American Society of Agriculture Engineers (ASAE) Standard, number ASAE S276.3 — Slow-Moving Vehicle Identification Emblem, (SMV) and ASAE Recommendation, number ASAE R276, Emblem for Identifying Slow-Moving Vehicles**, with the following modifications and additions:

(1) Body of Emblem, Material, and Surface: The background materials as listed in and prepared per ASAE S276.3 and ASAE R276 may be used as a background for SMV Emblems. In addition, any other rustproof and waterproof material of sufficient thickness to assure a permanent flat surface and allow permanent adhesion of pressure-sensitive materials may be used. Fiberglass, plastic, or medium density overlaid plywood are examples of the additional materials acceptable for use for the background of emblems.

(2) Mounting:

(a) Location — The SMV Emblem shall be mounted point upward, 3 to 5 feet above the ground, on the center rear of vehicle or as near left center as possible.

(b) Types of Mounting:

(A) The portable method of mounting with a tapered metal blade attached to the back of the SMV Emblem as described in **R276 5.2.1.**

(B) The SMV Emblem attached to or manufactured with a proper background material, may be directly attached to a flat surface of the slow-moving vehicle, with bolts or screws.

(C) An adhesive-backed emblem may be directly applied to a flat surface of the vehicle.

(3) Additional Requirements:

(a) Whenever a combination of vehicles is being operated, and the SMV Emblem on the front or towing vehicle is obscured by other vehicle(s) in the combination, an additional emblem shall be displayed on the rearmost vehicle of the combination.

(b) The orange fluorescent pressure-sensitive material in the center of the SMV Emblem shall be replaced when it is no longer visible in normal sunlight for a distance of 500 feet. The red reflective pressure sensitive material on the border of the SMV Emblem shall be replaced when it is no longer visible at night from a distance of 500 feet when illuminated by the lower beam of motor vehicle headlights.

(c) The SMV Emblem shall be used on horse drawn vehicles as well as all other vehicles designed for speeds of less than 25 miles per hour, including those vehicles described in ORS 815.110, when the vehicles are operated on a highway as defined in ORS 801.305.

(d) The SMV Emblem shall be maintained in a clean condition.

(e) The SMV Emblem does not replace vehicle lighting and/or warning flags as required by Oregon Law.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616 & 815.060

Stats. Implemented: ORS 815.060

Hist.: MV 12-1986, f. & ef. 8-22-86; Administrative Renumbering 3-1988, Renumbered from 735-041-0005

DIVISION 116

STANDARDS FOR OFF-ROAD VEHICLES

735-116-0000
Safety Equipment Standards for Off-Road Vehicles

(1) The Transportation Safety Division of the Department of Transportation adopts the following equipment requirements for off-road vehicles that operate in areas as described in ORS 821.020.

(2) For purposes of this rule, the following definitions apply:

(a) "Off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain;

(b) "Motor vehicle" means any vehicle which is self-propelled;

(c) "Motorcycle" means any motor vehicle designed to travel with not more than two wheels in contact with the ground, and so that the driver sits astride the vehicle frame and a Class III all-terrain vehicle as defined in ORS 801.194;

(d) "Multi-wheeled motorized vehicle" means a Class 1 all-terrain vehicle as defined in ORS 801.190 and any other motor vehicle, except a tractor, designed to travel with three or more wheels in contact with the ground, with the driver sitting astride the vehicle frame; and

(e) "Class II all-terrain vehicle" means any motor vehicle as defined in ORS 801.193.

(3) Safety equipment standards for off-road vehicles subject to this rule are:

(a) Brakes. All vehicles must have disc or drum brakes that are operable and effective in bringing the vehicle to a stop;

(b) Chain Guard. Any vehicle equipped with a chain must have a guard so designed that in the event of failure, the chain will remain under the vehicle;

(c) Fire Extinguisher. All vehicles, except motorcycles and multi-wheeled motorized vehicles, must be equipped with a functional dry chemical type fire extinguisher of at least two pounds capacity that is approved by the Underwriters Laboratories or other acceptable testing agency;

(d) Flag. All vehicles must display a highly visible red or orange flag when operating on the sand. The flag must:

(A) Be displayed at a height of at least nine feet from the ground level when the vehicle is under power; and

(B) Have one side that is at least eight inches wide, and be at least twelve inches long;

(e) Floor Pan/Foot Pads. All vehicles must have floor pans, with the exception of motorcycles and multi-wheeled motorized vehicles, that must have foot pads or the equivalent, so designed and mounted as to keep the driver's and any passenger's feet within the frame of or from underneath the vehicle;

(f) Fuel Tank. All fuel tanks must be:

(A) Securely mounted;

(B) Properly constructed of metal, plastic, or other industry safety approved material;

(C) Properly constructed for the carrying of fuel; and

(D) All connections must be kept secure and tight.

(g) Muffler. All vehicles must be equipped with a muffler that conforms to the current noise level and defect standards of the Department of Environmental Quality for vehicles operated off-road;

(h) Roll Bar. All vehicles, except motorcycles and multi-wheeled motorized vehicles, must be equipped with a roll bar or other enclosure that will support the vehicle's weight and be so designed as to protect the occupants' head(s) when the vehicle is resting on this roll bar or enclosure;

(i) Seats. All vehicles must be equipped with a securely mounted seat for the driver and each passenger;

(j) Seat Belts. All vehicles, except motorcycles and multi-wheeled motorized vehicles, must be equipped with securely mounted seat belts of the quick-release type, readily available for use for the driver and each passenger;

(k) Windshield Wipers. All vehicles equipped with a windshield, except motorcycles, must have an effective working windshield wiper;

(l) Headlights and Taillights. At any time from one-half hour after sunset to one-half hour after sunrise, all vehicles shall be equipped with and display headlights and taillights. Motorcycles and multi-wheeled motorized vehicles shall be equipped with a minimum of one headlight and one taillight.

Stat. Auth.: ORS 184.616, 184.619 & 821.030

Stats. Implemented: ORS 821.010 - 821.040

Hist.: MV 65, f. & ef. 12-15-75; MV 17-1983, f. & ef. 12-5-83; MV 12-1986, f. & ef. 8-22-86; Administrative Renumbering 3-1988, Renumbered from 735-080-0200; DMV 10-2003(Temp), f. & cert. ef. 7-17-03 thru 1-12-04; DMV 2-2004, f. & cert. ef. 1-15-04

DIVISION 118

IGNITION INTERLOCK DEVICES

735-118-0000
Definitions Relevant to Ignition Interlock Devices

For purposes of these rules, OAR 735-118-0000 through 735-118-0050, the following definitions apply:

(1) "Alcohol" means ethanol or ethyl alcohol.

(2) "Alcohol set point" means the breath alcohol concentration at which an ignition interlock device is set to prevent a vehicle from starting.

(3) "Breath Alcohol Concentration (BrAC)" means the amount of alcohol in a given amount of breath, expressed in weight per volume based upon grams of alcohol per 210 liters of breath.

(4) "Breath sample" means normal expired human breath primarily containing air from the deep lung.

(5) "Calibration" means service to a device provided by the provider to ensure the device is in proper working order, including a process to ensure the ignition interlock device remains capable of accurately analyzing a breath sample and downloading all the data collected on the device either from installation or last calibration of the device.

(6) "Device" means an Ignition Interlock Device.

(7) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(8) "Ignition Interlock Device" means an instrument designed to measure the BrAC of an individual and which prevents a motorized vehicle from starting when the BrAC exceeds a predetermined and preset level.

(9) "Lockout" means the device prevented the vehicle from starting as described in OAR 735-118-0040(4)(f);

(10) "Manufacturer" means a person, company, or corporation who manufactures or produces an ignition interlock device.

(11) "Manufacturer's representative" is the individual designated by the manufacturer to act on behalf of or to represent the manufacturer in all matters regarding device certificate.

(12) "Provider" means a person, company, corporation or representative who provides, installs, calibrates, rents or leases a device in the State of Oregon.

(13) "Purge" means any mechanism by which a device cleanses or removes a previous breath sample from the device and specifically removes residual alcohol.

(14) "Restart" means the ability to start the engine again without giving another breath sample when after a test is successfully completed and the vehicle is started, the engine later stops for any reason (including stalling) and must be restarted.

(15) "Retest" means a breath sample required by the device after the initial engine start-up breath sample and while the engine is running.

(16) "Tampering" means doing anything to a device that was ordered installed pursuant to ORS 813.602 that circumvents the operation of the device;

(17) "Test Violation" means:

(a) Any attempt to start the vehicle by a person with a BrAC of 0.040 or higher unless a subsequent test performed within 10 minutes registers a BrAC lower than 0.040 and the digital images confirm the same person provided both samples;

(b) Failure to take any random retest unless a review of the digital image confirms that the vehicle was not being operated by the person required to have the IID at the time of the missed test; or

(c) Failure to pass any random retest due to a BrAC of 0.020 or higher unless a subsequent test performed within 10 minutes registers a BrAC lower than 0.020, and the digital images confirm the same person provided both samples.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600
Hist.: MV 36-1987(Temp), f. & ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-169-0000; MV 17-1988, f. & cert. ef. 5-18-88; DMV 11-2001, f. & cert. ef. 7-18-01; DMV 9-2005, f. & cert. ef. 2-16-05; DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14; DMV 12-2015, f. 12-17-15, cert. ef. 1-1-16

735-118-0010
Ignition Interlock Devices Approved in Oregon and Providers

(1) Any device acceptable for use in Oregon must be approved by DMV. For DMV to approve a device, a manufacturer or manufacturer's representative requesting approval of a device must submit:

(a) DMV form 735-7349 — Certification of Ignition Interlock Device (IID);

(b) A certificate of insurance as evidence of proof of product liability insurance as described in OAR 735-118-0020; and

(c) Written documentation from an International Organization for Standardization (ISO) certified testing laboratory that two samples of the manufacturer's specific model of ignition interlock device applying for certification in Oregon meets or exceeds the model specifications established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs)", which is incorporated by reference and made part of this rule as published in the Federal Register, Volume 78, Number 89, Wednesday, May 8, 2013, on pages 26849-26867 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective May 8, 2014. The documentation from the ISO certified testing laboratory must include:

(A) The name and location of the testing laboratory;

(B) The address and phone number of the testing laboratory;

(C) A description of the tests performed;

(D) Copies of the data and results of the testing procedures; and

(E) The names and qualifications of the individuals performing the tests.

(2) DMV may require the manufacturer, manufacturer's representative or provider to send a device to DMV to test to determine if a device should be approved or remain approved in Oregon. DMV may refuse to approve or remove a device from the list of approved devices if a manufacturer, manufacturer's representative or provider fails to send a device to DMV to test.

(3) A manufacturer or manufacturer's representative of a device approved prior to the 2014 amendment of OAR 735-118-0010 and 735-118-0040 must submit the documentation required by this rule for a device to be approved in Oregon for installation on or after January 1, 2015. An individual who currently has a previously-approved device installed in a vehicle may use that device until the end of the requirement for a device as long as the provider of the device continues to calibrate and de-install the device and produce reports as required by 735-118-0050.

(4) DMV's list of approved devices and the providers of those devices is available at www.OregonDMV.com.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600
Hist.: MV 36-1987(Temp), f. & ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-169-0010; MV 17-1988, f. & cert. ef. 5-18-88; DMV 11-2001, f. & cert. ef. 7-18-01; DMV 9-2005, f. & cert. ef. 2-16-05; DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14

735-118-0020
Product Liability for Ignition Interlock Devices

(1) Each manufacturer or manufacturer's representative of a device must have product liability insurance with minimum liability limits of one million dollars per occurrence. There must be no cancellation, material change, exhaustion of aggregate limits or intent not to renew the coverage by the manufacturer or the insurance company without 30 days written notice to DMV.

(2) Each manufacturer or manufacturer's representative of a device that appears on Oregon's approved device list must provide to DMV, a statement that the manufacturer, or the manufacturer's representative, will be totally responsible for product liability and to indemnify the following from any liability resulting from the device or its installation or use:

(a) The State of Oregon;

(b) The court that ordered installation of the device; and

(c) The testing laboratory that has verified the device meets DMV standards and requirements.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600
Hist.: MV 36-1987(Temp), f. & ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-169-0020; MV 17-1988, f. & cert. ef. 5-18-88; DMV 11-2001, f. & cert. ef. 7-18-01; DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14

735-118-0030
Removal from List of Approved Ignition Interlock Devices

(1) DMV may remove a device from the list of approved devices, upon any of the following grounds:

(a) Evidence of repeated device failures due to gross defects in design, materials or workmanship during manufacture;

(b) Notices of cancellation of the manufacturer's or manufacturer's representative liability insurance;

(c) Notice that the manufacturer, manufacturer's representative or provider is no longer in business;

(d) Voluntary request from the manufacturer or manufacturer's representative of the device in Oregon to remove a device from the approved list for which the manufacturer or manufacturer's representative has previously received approval;

(e) Repeated and documented non-compliance with the requirements of OAR 735-118-0050 by the provider; or

(f) Any other reasonable cause to believe the device was inaccurately represented as meeting the performance standards described in these rules.

(2) When DMV removes a device from the list of approved devices that device is no longer acceptable for new installations. DMV may notify individuals with a current installation of a device removed from the list of approved devices that the person must

install a different device to continue to meet the requirement to install an IID.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600
Hist.: MV 36-1987(Temp), f. & ef. 12-1-87; Administrative Renumbering 3-1988, Renumbered from 735-169-0030; MV 17-1988, f. & cert. ef. 5-18-88; DMV 11-2001, f. & cert. ef. 7-18-01; DMV 9-2005, f. & cert. ef. 2-16-05; DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14

735-118-0040
Performance Standards for Ignition Interlock Devices

(1) Beginning January 1, 2015, all devices newly installed into a vehicle must be based on electro-chemical fuel sensor technology and must meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs)", which is incorporated by reference and made part of this rule as published in the Federal Registers, Volume 78, Number 89, Wednesday, May 8, 2013, on pages 26849-26867 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective May 8, 2014.

(2) Beginning June 1, 2015, all devices newly installed into a vehicle must be equipped with a camera that captures the photo of the person blowing into the device when a sample is provided.

(3) The alcohol set point designated by Oregon is .020 BrAC.

(4) In addition to the specifications listed in sections (1), (2) and (3) of this rule, an approved device must:

(a) Prevent the vehicle from starting, for a period not exceeding 15 minutes, if there are three failed attempts to provide the required breath sample or the breath sample is equal to or above .020 BrAC.

(b) Purge automatically and completely the device before allowing subsequent tests.

(c) Allow the vehicle to be started upon completing a subsequent test if the breath sample is below .020 BrAC.

(d) Require retests while a vehicle's engine is in operation as follows:

(A) The first retest is required at a randomly variable interval ranging from five to ten minutes after passing the initial breath test and starting the vehicle's engine. Subsequent retests are required at randomly variable intervals ranging from 15 to 45 minutes from the previously required retest for the duration of travel.

(B) A device must allow five minutes for the retest to be completed.

(C) A device must provide a distinct audible and visual indicator to alert the driver that a retest is in progress. A retest is considered failed if it is not performed or the breath sample registers at or above .020 BAC. Upon a retest failure, the device must:

(i) Activate a unique audible and visual indicator inside the passenger compartment of the vehicle, until the engine is shut down;

(ii) Record a retest violation in the data storage system;

(iii) Require the device to be serviced within seven days; and

(iv) Disable the free restart feature.

(e) Require a periodic calibration at least once every 60 days.

(f) Prevent the vehicle from starting if the vehicle misses the scheduled calibration appointment by more than seven days.

(g) Allow a restart within three minutes (free restart feature), without an additional test, when the ignition is turned off or the vehicle has stalled.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600
Hist.: MV 36-1987(Temp), f. & ef. 12-1-87; MV 41-1987(Temp), f. & ef. 12-18-87; Administrative Renumbering 3-1988, Renumbered from 735-169-0040; MV 17-1988, f. & cert. ef. 5-18-88; DMV 11-2001, f. & cert. ef. 7-18-01; DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14

735-118-0050
Requirement and Reports

(1) The requirement that an approved ignition interlock device be installed and used in any vehicle operated by a person is a DMV requirement when:

(a) The person is applying to DMV for a hardship permit and an ignition interlock device is required for the person to qualify for a hardship permit; or

(b) The person is applying for full reinstatement following a suspension or revocation of driving privileges and due to the conviction(s) that caused the suspension or revocation the person is required to install an ignition interlock device.

(2) The requirement that an approved ignition interlock device be installed and used in any vehicle operated by a person is a court requirement when the person has entered a diversion agreement with a court.

(3) A provider must download the data collected by a device each time the provider calibrates the device, even if the provider determines calibration is unnecessary.

(4) For a person who has an ignition interlock device installed as a condition of a diversion agreement, a manufacturer, manufacturer's representative (or a provider authorized by a manufacturer or manufacturer's representative) must report installation of the device or IID Negative Report (DMV Form 735-7378) by a person to both the court that required the installation (or the court's designee) and to the district attorney or city prosecutor in the court's jurisdiction as required by Section 2, Chapter 577, Oregon Laws 2015.

(5) A manufacturer, manufacturer's representative (or a provider authorized by a manufacturer or manufacturer's representative) must complete and submit to DMV the IID Certification — No Negative Report (DMV form 735-7379) when a person required to install an IID has no negative report during the last 90 days of any requirement or, if the requirement has been extended, as soon as 90 days without a negative report occurs.

(6) A manufacturer, manufacturer's representative (or a provider authorized by a manufacturer or manufacturer's representative) must, upon request, provide to the person a IID Certification — No Negative Report (DMV form 735-7379) if the person had the device installed due to a diversion agreement and there is no negative report for at least six consecutive months.

(7) For purposes of this rule, a "negative report" is a report of tampering with an ignition interlock device, unauthorized removal of an ignition interlock device, lockout or a test violation recorded by an ignition interlock device.

Stat. Auth.: ORS 184.616, 184.619 & 813.600
Stats. Implemented: ORS 813.600 & 813.602
Hist.: DMV 8-2014, f. 8-29-14, cert. ef. 9-1-14; DMV 12-2015, f. 12-17-15, cert. ef. 1-1-16

DIVISION 120

DEFINITIONS/RIGHTS OF TRANSPORTATION SAFETY

735-120-0000
Rights of Transportation Safety

(1) The purpose of this Safety Code is to prescribe minimum standards for the safe transportation of workmen to and from their place of employment as set forth in ORS 820.010 to 820.070.

(2) All standards in this Code are minimum. They can be made more stringent if necessary to protect the life and safety of persons.

(3) All owners of motor vehicles used to transport workmen, or their duly appointed agents, and drivers of such vehicles shall abide by all safety orders issued to them by the Transportation Safety Division of the Department of Transportation (Transportation Safety), the Department of Consumer and Business Services, or by their duly authorized representatives.

(4) In exceptional cases where the rigid application or compliance with a standard can only be accomplished to the detriment and serious disadvantage of an operation, exception to the standard will be considered upon written application to Transportation Safety. After thorough investigation, an exception may be granted or another rule applied or devised.

(5) Any person or party aggrieved by an order issued under the provisions of this Code may apply to Transportation Safety for

a rehearing. Such application shall be made in accordance with the provisions of ORS 183.480, and shall set forth in full detail the grounds upon which the applicant considers the order unjust.

(6) It is recognized that a definite, positive Safety Code cannot anticipate all contingencies. Transportation Safety, after due notice and opportunity to be heard, may require additional standards to insure adequate safety and upon its own motion, or upon application of any owner, or his duly appointed agent, may modify any provision of this Code.

(7) The right of inspection and examination of worker transportation vehicles at any reasonable time is reserved by Transportation Safety or its duly appointed representative.

(8) Terms used in this Code other than those specifically defined shall be interpreted in the most commonly accepted sense.

(9) Roadway is defined as any public street or roadway when referred to in this Code.

Stat. Auth.: ORS 184.616, 820.010 & 820.070
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; MV 60, f. 10-14-75, ef. 11-11-75; Administrative Renumbering 3-1988, Renumbered from 735-081-0000

Definitions — Trailers Prohibited — School Bus Identification Removal — Construction and Mechanical Equipment

735-120-0010
Definitions

The following definitions shall be used for the purpose of this Code:

(1) "Class 'A' vehicle": A vehicle of the bus type designed to carry 12 or more workers; or of the "work crew" type especially built or accommodated for carrying passengers.

(2) "Class 'B' vehicle": A vehicle especially built or accommodated for transporting work crews in compartments separate from space used to transport supplies, tools, and equipment such as vehicles commonly used by public utilities.

(3) "Class 'C' vehicle": A vehicle of the flatbed, pickup body, or dump truck body type, or of similar open body construction.

(4) "Class 'D' vehicle": A vehicle of the passenger car or station wagon type.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0010

DIVISION 122

INSPECTION/TESTING/REPAIRS

735-122-0000
Inspection, Testing, and Repairs

(1) All vehicles shall be kept in good repair and safe operating condition at all times. Vehicles with defective gears, tires, steering equipment, or foot and emergency brakes shall not be used to transport workers.

(2) Inspection or testing of all parts vital to the safe operation of vehicles such as brakes, steering gear, tires, lights, and signaling devices shall be made at the beginning of each shift or each day, and as often as necessary during use. Any condition found then or at any other time which will prevent the safe operation of the vehicle shall be corrected before the vehicle is used.

(3) The requirements of this Safety Code become law after the effective date; therefore the owner or operator of any vehicle used to transport workers must comply with these requirements the same as he is required to comply with any other motor vehicle law. Violations of this Code should be reported to Transportation Safety or authorized representative.

(4) Compartments for workers shall be kept in a clean and sanitary condition and workers shall assist in maintaining such conditions.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.050
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0060

DIVISION 124

CONSTRUCTION OF VEHICLES

735-124-0000
Use of Trailer Prohibited

The use of a trailer for transporting workers except a bus trailer attached to a truck tractor by means of a fifth-wheel mounting is prohibited.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0012

735-124-0010
School Bus Identification Removal

Whenever a school bus is used in any service other than the actual transportation of children to and from school or authorized activities, the word "school bus" shall be covered or concealed.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0014

735-124-0020
Flashing Warning Lights

Buses having a seating capacity of 12 passengers or more which are used to pick up and discharge worker passengers on the roadway shall be painted National School Bus Chrome Yellow and shall be equipped with either a red flashing four-light system or an amber and red flashing eight-light system. A bus equipped with the four-light system shall conform to the following specifications:

(1) Bus shall be equipped with two alternately flashing red lights on the front, at the upper left and right corners above the windshield; and two alternately flashing red lights on the back, at the upper left and right corners above the windows. Lights having a minimum of 7" diameter measured across the face of lens are strongly recommended.

(2) Each signal lamp shall be mounted with its axis substantially parallel to the longitudinal axis of the vehicle.

(3) Lamps shall be of a type approved by Transportation Safety and shall flash alternately at a rate of 60 to 120 cycles per minute.

(4) Lamp lenses shall be red in color as specified by current SAE standards.

(5) Lamps shall be controlled by a manually operated switch with a positive "off" and "on" position and mounted in such a position that the switch can be easily reached by the driver while seated in a normal driving position. Wiring of this switch through the ignition switch is not permitted. This shall be the only switch that controls the flashing warning lights. (Door switch or springloaded switch not permitted.)

(6) There shall be a visible means of giving a clear or unmistakable indication to the driver when the lamps are turned on. This visible indication shall be wired into the circuit so that it will flash when the warning lights flash and it shall be within the direct view of the driver when seated in a normal driving position, and shall have an illuminated area of at least 5/8" diameter.

(7) Area around lens of each alternately flashing red warning light and extending outward approximately 3" may be painted black. In installations where there is no flat vertical portion of body immediately surrounding entire lens of lamp, circular or square band of black approximately 3" wide immediately below and to both sides of lens, may be painted on body or background area against which signal lamp is seen.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74;MV 75, f. 3-18-77, ef. 6-1-77; Administrative Renumbering 3-1988, Renumbered from 735-081-0016

735-124-0030
Bus Equipped with Eight-Light System

A bus equipped with the eight-light system shall comply with the standards as adopted by the State Board of Education, March 1975, OAR 581-053-0517(23)(k), Lamps and Signals.

EXCEPTION: Worker transportation vehicles with a seating capacity of 12 or more which do not pick up or discharge on a roadway are not required to be equipped with flashing warning lights and are not required to be painted yellow.

Stat. Auth.: ORS 184.616, 811.515, 816.260 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 75, f. 3-18-77, ef. 6-1-77; Administrative Renumbering 3-1988, Renumbered from 735-081-0017

735-124-0040
Construction of Vehicles

(1) Class "A" and "B" vehicles shall be constructed or accommodated for transporting passengers, and shall be equipped with adequate seats and back rests firmly secured in place, and with such sides and ends as necessary to prevent persons from falling off the vehicle.

(2) Bus type vehicles having an enclosed seating compartment capacity of 12 or more workers, unless loaded from the rear, shall be provided with an emergency exit not less than 24 inches wide by not less than 48 inches high situated at the left side or rear of the vehicle. Doors shall be provided on bus type vehicles and shall be kept closed during transit and must operate freely at all times. They must be so constructed as to be easily opened from either inside or outside the vehicle.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0018

735-124-0050
Overhead Protection Required

Class "A" and "B" vehicles shall be provided with bodies and tops of sufficient strength to support the entire weight of the fully loaded vehicle on its top or side if overturned. Adequate means of escape and proper ventilation shall be provided.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0020

735-124-0060
Class "C" Vehicles

Flatbed trucks, dump trucks, and pickups shall not be used to transport workers, except when the following conditions are complied with:

(1) Truck beds shall be adequately secured to the truck frame.

(2) Vehicles with tilting, sliding, or otherwise movable decks or bodies shall have decks or bodies secured in a manner to prevent accidental movement. Dump truck bodies shall be secured or the hoist lever locked.

(3) Flatbed vehicles, when provided with seats for the workers, shall be equipped with substantial sides not less than 42 inches high, secured to an end gate or the vehicle cab at the front end, and either with a 42-inch-high end gate across the rear, secured to the vehicle sides, or with not less than three chains or ropes securely fastened across the back of the vehicle deck at the following approximate heights: the top rope or chain 42 inches high, the intermediate 28 inches high, and the bottom 14 inches high. Seats shall be firmly secured and no openings larger than six inches vertical shall be permitted in sides or in end gates.

(4) Flatbed vehicles not provided with seats shall be equipped with substantial sides and end gates not less than 24 inches high and workmen shall be required to sit on the floor.

EXCEPTION:
(1) If sides and end gates are not provided not more than four persons may be permitted to ride behind the truck cab and then only if substantial handholds are provided for their safety and they are required to use the handholds.
(2) Handholds may consist of
(a) a 3/4 inch or larger pipe secured to cab or cab guard,
(b) the top of the cab guard,
(c) slotted holes in cab guard,
(d) a wooden 2" x 4" bar secured to cab or cab guard.
(3) All handholds shall be of a convenient height. Workers under 16 years of age shall not be permitted to ride in this manner.

(5) Flatbed trucks on which more than four workers are required to stand shall have substantial sides and end gates not less than 48 inches high with no openings larger than six inches vertical. Sides and ends shall be secured as required in section (3) of this rule.

(6) Pickup and dump truck tailgates shall be closed and secured and workers shall sit on the floor unless seats firmly secured in place and substantial sides not less than 42 inches high are provided. A chain or rope shall be secured across the rear of such vehicles equipped with seats.

EXCEPTION: When workers are permitted to sit on low boxes or similar equipment, side rails which will increase height of pickup and dump truck bodies to not less than 36 inches shall be added with no openings larger than six inches. When heavy canvas is used as a top and sides and secured to the vehicle sides, the addition of side rails will not be required.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0022

735-124-0070
Number of Passengers — Standees — Passenger Compartment

All Class "A" and "B" type vehicles equipped with seats of any kind shall be provided with an aisle (or passageway between seats) at least 12 inches in width leading to the emergency exit. Workers shall not sit on the floor in such aisles or passageways while the vehicle is in motion. Not more than one worker per row of seats shall be permitted to stand. No workers shall be permitted to stand or sit in the driver's compartment ahead of the front row of seats. Under no cir cumstances shall boards be placed across an aisle to provide additional seating space. Neither shall seats of any type be placed in an aisle. Substantial handholds shall be provided for standees.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0024

735-124-0080
Maximum Time or Distance Permissible for Standees

(1) When workers being transported, in any class of vehicle, are required to stand during transit, those persons not provided with seats shall not be permitted to stand for more than one hour, or for a greater distance than 45 miles of vehicle travel, whichever is the lesser. A rest period of not less than 15 minutes shall be required before continuing trip unless those standing are given seats.

(2) Floor and decks shall be suitable for safe footing.

(3) All openings between enclosed passenger compartments and engine or exhaust at which fumes or gases may enter shall be effectively sealed.

(4) Construction of enclosed passenger compartments shall provide a reasonably dust-proof and watertight unit.

(5) Floors and interior of sides and ends and tops of compartments used for transporting workers shall be free of inwardly protruding nails, screws, splinters, or other protruding objects which might cause injury.

(6) Whenever necessary to protect workers from inclement weather conditions, a top and facilities for closing the sides and ends shall be provided. Tarpaulins or other such removable protective devices shall be secured in place during transit.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 - 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0026

735-124-0090
Entrance and Exit

Steps and handholds, when necessary for safe entrance and exit shall be provided on all vehicles used to transport workers.

NOTE: A portable ladder with steps not less than four inches wide and 16 inches long, not more than 12 inches apart, may be used provided ladder is equipped with hooks which will be attached to the truck body in a secure manner while in use. If stirrups are used they shall have the same width and spacing as required for ladders, but rungs may be used in place of steps.

Stat. Auth.: ORS 184.616 & 820.030

Stats. Implemented: ORS 820.010 - 820.030

Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0028

735-124-0100

Turn Signals

All Class "A" and "B" vehicles regardless of size shall be equipped with a mechanical or electrical turn signal device approved by Transportation Safety.

Stat. Auth.: ORS 184.616 & 820.030

Stats. Implemented: ORS 820.010 - 820.030

Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0030

735-124-0110

Mirrors

All Class "A" and "B" vehicles shall also be equipped with two side view mirrors; one installed on each side in such a manner as to give the driver a clear view to the rear in all lanes of traffic.

Stat. Auth.: ORS 184.616 & 820.030

Stats. Implemented: ORS 820.010 - 820.030

Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0032

735-124-0120

Brakes

(1) Four-wheel hydraulic brakes adequate to control the vehicle at all times when fully loaded and traveling at maximum speeds shall be provided unless the vehicle is equipped with a brake system of a superior type as approved by Transportation Safety.

(2) Auxiliary or emergency brake shall be provided in addition to service brake and shall be an entirely separate, mechanically operated device. It shall be adequate to hold vehicle stationary when fully loaded on any grade upon which vehicle may be operated.

(3) All new buses placed in service on and after the effective date of this Safety Code, the chassis of which is designed for any bus body of 36 or more workers, shall be equipped with full compressed air brakes, vacuum-actuated power or assistor type brakes, or compressed air-over-hydraulic brakes.

(a) Such installation shall be made by authorized representatives of chassis or brake manufacturer and shall conform to recommendation of that manufacturer.

(b) Hydraulic line pressure shall not exceed recommendation of chassis or brake manufacturer.

(c) Reservoir capacity shall be at least 1650 cubic inches for full compressed air systems, and at least 1000 cubic inches for vacuum-actuated systems and for compressed air-over-hydraulic system.

(d) Vehicles having full compressed air systems shall be equipped with:

(A) A safety valve mounted on first reservoir to protect air brake system against excessive air pressure and check valve located between source of supply and reservoir.

(B) Air gauge mounted on instrument panel to register air pressure in air brake system.

(C) Visible or audible low pressure indicator to warn driver if air pressure in air brake system falls below 60 pounds per square inch.

(e) Vehicles having vacuum-actuated or compressed air-over-hydraulic systems shall be equipped with check valve located between source of supply and reservoir.

Stat. Auth.: ORS 184.616 & 820.030

Stats. Implemented: ORS 820.010 - 820.030

Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0034

735-124-0130

Muffler and Exhaust System

(1) Every vehicle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(2) Vehicles equipped with vertical exhaust pipes located ahead of passenger compartments or open bodies on which workers are transported shall be equipped with deflectors when necessary to prevent fumes from entering passenger-carrying portion of the vehicle. Exhaust pipes directed to rear of vehicles equipped with partially enclosed passenger compartments shall be equipped with deflectors which will direct exhaust fumes to one side to prevent hazardous fumes from being sucked into the passenger compartment.

(3) On buses and all other types of vehicles which have enclosed passenger compartments, the exhaust pipe, muffler, and tail pipe shall be outside the passenger compartment and attached to the chassis and the tail pipe shall extend at least to the rear bumper but not more than three inches beyond.

(4) The size of the tail pipe shall not be reduced after it leaves the muffler on any vehicle.

(5) Exhaust system shall be properly insulated from the gasoline tank and connections thereof by a metal shield at any point where there is 12 inches or less from the fuel tank or tank connections.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0036

735-124-0140
Steering Gear

(1) Steering gear shall be approved by the chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and at maximum speed.

(2) Steering mechanism shall provide for easy adjustment for lost motion.

(3) No changes shall be made in steering apparatus which are not approved by the chassis or body manufacturer.

(4) There shall be a clearance of at least two inches between the steering wheel and the cowl, instrument panel, or any other surface and at least a distance of 21 inches measured from floor to bottom of steering wheel with a tolerance of one-half inch on all vehicles manufactured and placed in this service after the effective date of this Safety Code.

(5) Steering wheel shall be of a size recommended by the chassis manufacturer for the particular chassis.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0038

735-124-0150
Tires

(1) Dual rear tires shall be provided on all vehicles having a seating capacity of more than 20 workers.

(2) Tires which are excessively worn, cracked, deteriorated, or damaged in any other way shall not be used. All tires must have a minimum tread depth of 2/32 inches.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0040

735-124-0160
Sun Shield

All class vehicles shall be equipped with an adjustable sun visor.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0042

735-124-0170
Battery

Battery shall be mounted outside passenger compartment in an adequate carrier and be readily accessible for servicing and removal.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0044

735-124-0180
Weight Distribution — Buses

Weight distribution shall be such that not more than 75 percent of gross vehicle weight shall be on rear tires when bus is on level surface.

EXCEPTION: Transit and metropolitan buses — Weight distribution shall be such that not more than 70 percent of gross weight shall be on rear tires when bus is on level surface.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0046

735-124-0190
Horn

Every vehicle shall be equipped with a horn or horns in good working order and capable of emitting sounds audible under normal conditions from a distance of not less than 200 feet.

Stat. Auth.: ORS 184.616, 815.230 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0048

735-124-0200
Glass

All glass in a worker transportation vehicle must have no holes or cracks so severe as to cause the glass to deflect. Except the windshield, glass to each side of the driver and rear windows must be clear. The replacement of glass shall be with approved safety type.

Stat. Auth.: ORS 184.616, 815.040 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0050

DIVISION 126

SAFETY EQUIPMENT REQUIREMENTS

735-126-0000
First Aid Kit

(1) All vehicles used for the transportation of workmen shall carry a first aid kit suitable for the number of passengers customarily transported. First aid kits shall be located where they are readily available to the driver or crew supervisor and shall be inspected and maintained in good order and in required quantities. Contents of kits shall be:

(a) Eight gauze pads individually wrapped (3" X 3" at least);

(b) Two large gauze pads which are or can be folded to an approximate size of 8" X 10" or equivalent;

(c) One box adhesive bandages;

(d) One package gauze roller bandage at least 2" wide or equivalent;

(e) Two triangular bandages;

(f) Wound-cleaning agent, such as sealed, moistened towelettes, or soap and water;

(g) Scissors; and

(h) One blanket or equivalent; or

(i) Minimum first aid supplies, as approved in writing by the firm's consulting physician, may be provided in lieu of those specified above.

(2) The 24-unit first aid kit as required by the State of Oregon under "Minimum Standards for School Buses" shall be acceptable under this Safety Code for school buses used temporarily to transport workers.

Stat. Auth.: ORS 802.010 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; MV 67, f. 3-5-76, ef. 3-15-76; Administrative Renumbering 3-1988, Renumbered from 735-081-0070

735-126-0010
Fire Extinguisher

(1) Each vehicle used to transport workers shall be equipped with either a two pound dry chemical type, or a four pound carbon dioxide type, or a one quart vaporizing type fire extinguisher. Such extinguishers must be approved by Underwriter Laboratories, Inc., or other acceptable testing agency, or by the inspecting authority.

(2) Toxic vaporizing liquid type fire extinguishers such as those containing carbon tetrachloride or chlorobromethane will not be permitted on motor vehicles transporting workers.

Stat. Auth.: ORS 802.010 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0072

735-126-0020
Securing of Tools, Equipment, Etc.

(1) Racks, boxes, holsters, or equivalent means shall be provided and arranged so passengers and driver will not be endangered by tools or equipment being transported, loaded, or removed. Tools and equipment are preferably placed or arranged so they are accessible from the outside of the vehicle.

(2) Tools and materials shall be secured in the racks and boxes provided.

Stat. Auth.: ORS 802.010 & 820.030
Stats. Implemented: ORS 820.010 - 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0074

DIVISION 128

DRIVER'S DUTIES

735-128-0000
Drivers

(1) Only experienced, competent, qualified, and licensed drivers, not less than 18 years of age shall be permitted to operate vehicles used to transport workers. A chauffeur's license is not required.

(2) No driver of a vehicle used to transport workers shall operate such vehicle for more than 10 hours in the aggregate excluding rest stops and stops for meals in any period of 24 consecutive hours unless such driver be off duty for eight consecutive hours immediately following the 10 hours aggregate driving and within said period of 24 consecutive hours. The term "24 consecutive hours" as used herein means any such period starting at the time the driver reports for duty. In case of snow, sleet, fog, or other adverse weather conditions a driver may be permitted to drive or operate a motor vehicle for not more than 12 hours in the aggregate in any period of 24 consecutive hours in order to complete the run without being off duty for a period of eight consecutive hours.

(3) In lieu of responsible supervisory personnel the operator of a vehicle shall at all times be in charge of workers and responsible for the observance of safety rules by the workers being transported.

(4) When the driver's compartment is separate from the compartment used to transport workers and children under 18 years of age are riding, an adult or some person not less than 18 years of age shall be designated to supervise the children and shall ride in the same compartment with them.

(5) There shall be some signal system or signaling device provided for the supervisor to communicate with or signal the driver.

(6) Signals adopted shall be simple and understood by both driver and supervisor. If a signaling device is used it shall be maintained in good working order.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0080

735-128-0010
Operation of Vehicles

(1) Brakes shall be tested immediately at the start of each trip.

(2) No vehicle shall be loaded beyond its safe carrying capacity.

(3) No motor vehicle shall be driven if it is so loaded or if the load thereon is so distributed or so inadequately secured as to prevent its safe operation.

(4) No motor vehicle shall be driven when the passengers or any object obscures the driver's view ahead or to either side or interferes with the free movement of his arms or legs, or prevents his free and ready access to his controls and emergency equipment, or prevents the free and ready exit of any persons from the vehicle.

(5) All vehicles transporting workers shall observe all Motor Vehicle Laws of this state such as the basic speed rule, posted speeds, proper signals for turning and stopping, etc.

(6) The driver of any Class "A," "B," and "C" type vehicle transporting workers before crossing at grade any tracks of a railroad or interurban electric railway shall stop such vehicle not less than 10 nor more than 50 feet from the nearest rail of such track and while so stopped shall look and listen in both directions along such tracks for approaching trains or cars.

(a) This requirement shall not apply:

(A) At the crossing of a street or highway and street tracks;

(B) To interurban tracks where traffic control signals are in operation and give indication to approaching vehicular traffic to proceed;

(C) To industry track crossing which train operations are required by law to be conducted under flag protection; or

(D) To industry track crossings within districts in which the indicated speed of vehicles is 20 miles per hour.

(b) Unless a train is approaching, motor vehicles carrying workers are not required to stop at crossings where the Public Utilities Commissioner has determined and plainly marked that no stop need be made.

(7) Only authorized persons shall be allowed to ride on vehicles.

(8) Vehicles transporting workers not using alternately flashing red lights shall be driven completely off the highway or road to discharge or take on workers.

(9) Vehicles using alternately flashing lights:

(a) When workers must cross the highway to board or after leaving the bus the driver shall actuate the flashing warning lights for a distance of approximately 100 to 300 feet to warn traffic that the bus is stopping. He shall stop the bus in the right-hand traffic lane. The lights shall remain flashing until all workers have safely crossed the highway. After workers have safely crossed the highway, the driver shall make every effort to clear following traffic by pulling over onto the shoulder of the highway, when possible, and proceeding slowly until traffic is cleared.

(b) When workers need not cross the highway to board or after leaving the bus, the driver has two alternatives:

(A) When it is possible, he should stop completely off the main traveled portion of the highway. He will not actuate the flashing warning lights and traffic is not required to stop.

(B) Where shoulders of the highway are too narrow for the bus to pull completely off the main traveled portion of the highway, the driver shall actuate the flashing warning lights for a distance of approximately 100 to 300 feet to warn traffic that the bus is stopping. He shall stop the bus in the right-hand traffic lane. Lights shall remain flashing until workers have safely boarded or left the bus.

NOTE: It is recommended that worker bus routes be set up so that workers will be picked up or let off the worker bus on their residence side.

The worker bus driver must use his ingenuity and good judgment to keep traffic moving and still protect the workers.

When stopping a bus on the highway, the driver, after ascertaining that the way is clear, shall signal workers across the road in front of the bus. The driver shall not start the bus until workers are seen to be out of danger.

The driver shall report to Transportation Safety the license number of any vehicle which violates the law endangering the lives of any workers. The time, place, violation, and correct license number shall be recorded.

(10) Loose tools and other hazardous objects shall not be permitted on the floor of occupied vehicles.

(11) When materials of any type are transported at the same time workers and driver shall be protected from the hazards of such materials by adequate partitions or proper securing of loads.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; MV 75, f. 3-18-77, ef. 6-1-77; Administrative Renumbering 3-1988, Renumbered from 735-081-0082

735-128-0020
Hauling of Explosives Prohibited

No explosives shall be hauled on any vehicle while it is engaged in transporting workers. This rule shall not prohibit the

driver and one qualified powder man from riding in a vehicle in which explosives are being hauled.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0084

735-128-0030
Hauling of Gasoline, Etc.

(1) Gasoline and other low flash point liquids shall not be hauled on Class "A," "B," and "D" vehicles transporting workers except when in U.L. approved, closed safety containers of not more than five gallon capacity and provided such containers are carried in a safe, suitablelocation outside the passenger compartment. Such containers shall be carried as far away from the passenger compartment as possible and where they will not block exit from the vehicle and shall be firmly secured to prevent shifting or placed in well-ventilated compartments or racks.

(2) Gasoline in containers larger than five gallons may be transported in Class "C" vehicles provided all workers ride in the cab of the vehicle or in a separate compartment.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0086

735-128-0040
Refueling of Vehicles

(1) Smoking in the vicinity of vehicles being refueled is prohibited.

(2) Refueling while motor is running or when within close proximity to any open fires or flame lights is prohibited.

(3) Refueling of Class "A" and "B" vehicles shall be done when vehicles are not occupied.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0088

735-128-0050
Heating of Vehicles

(1) Any heating units provided for the comfort of workers riding in vehicles used in their transportation shall be guarded or covered to prevent workers from being burned by accidental contact. The use of hot water radiator type heaters is recommended.

(2) If it is necessary to use stoves for heating, such stoves shall be securely attached to the bed of the vehicle and shall be equipped with doors which lock securely. Pipes and other attachments shall be securely fastened to the stove and to the vehicle. Pipes shall be either of continuous length or welded or riveted at the joints.

(3) Heating facilities shall be arranged so that smoke, fumes, or gases will not enter the vehicle.

Stat. Auth.: ORS 184.616 & 820.030
Stats. Implemented: ORS 820.030 & 820.070
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0100

DIVISION 130

WORKER'S DUTIES

735-130-0000
Workers' Duties

(1) Workers riding in motor vehicles having adequate seating facilities or in vehicles not equipped with sides and end gates at least 48 inches high shall not stand while the vehicle is in motion, except as permitted in OAR 735-124-0060(4). Passengers must wait for the vehicle to come to a complete stop before boarding or leaving.

(2) Workers shall be prohibited from riding on running board or fenders, hood or cab tops, or with their arms or feet hanging out of or over the rear or side of any vehicle, or on sides of pickups or on tailgates.

(3) When dismounting from a vehicle on a highway or road, the workers shall wait until the vehicle has proceeded before crossing the road unless the vehicle has stopped at its destination except when alternately flashing red lights are used as described in OAR 735-128-0010(9).

(4) Workers wearing equipment which might injure a fellow workman (spurs, exposed sharp tools, etc.) shall remove such equipment before entering any vehicle in which workers are being transported.

(5) Scuffling or horseplay while riding in any vehicle is prohibited.

(6) Any hazardous condition or defect of a motor vehicle or unsafe practice of driver or workers riding in any vehicle used to transport workers shall be reported to the employer, supervisor, or driver as soon as possible by any worker having knowledge of such conditions.

Stat. Auth.: ORS 802.010 & 820.030
Stats. Implemented: ORS 820.030
Hist.: MV 49(Temp), f. & ef. 7-11-73 thru 11-8-73; MV 57, f. 7-19-74, ef. 8-11-74; Administrative Renumbering 3-1988, Renumbered from 735-081-0090

DIVISION 150

VEHICLE DEALERS

735-150-0000
Authority and Purpose

Division 150 rules are adopted under the authority of ORS 822.035. These rules establish procedures and requirements for the administration and enforcement of laws relating to the regulation of Oregon vehicle dealers.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.035
Stats. Implemented: ORS 822.035
Hist.: MV 7-1987, f. & ef. 7-13-87; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0005
Oregon Dealer Advisory Committee

(1) The Oregon Dealer Advisory Committee is established pursuant to ORS 802.370.

(2) The committee's membership will consist of the following individuals appointed by the DMV administrator:

(a) Two individuals who represent franchise dealers of new vehicles;

(b) Two individuals who represent dealers of used vehicles;

(c) Two individuals who represent Oregon dismantlers;

(d) Two individuals who represent the interests of the general public;

(e) One individual who represents recreational vehicle dealers;

(f) One individual who represents vehicle dealership office management interests;

(g) One individual who represents auto auctions;

(h) One individual who represents Oregon towing businesses; and

(i) One individual who represents dealers of motorcycles, mopeds, or all-terrain vehicles.

(j) In addition to the committee membership described under subsections (a) through (i) of this section, membership may also include one individual, whose term of appointment and interest of representation is determined by the DMV Administrator.

(3) DMV will designate one member listed in section (2) of this rule as chair of the committee. The chair's term expires December 31 of each year.

(4) Committee members are appointed to a three-year term and may be reappointed by the DMV administrator to serve an additional term(s). However, members serve at the pleasure of the DMV Administrator. Member terms will be staggered in a manner determined by DMV. In the event of a vacancy, the DMV administrator will appoint a new committee member to serve the duration of the three-year term.

(5) DMV will seek the recommendation of existing ODAC committee members or a trade or professional association generally

recognized to represent a membership category before appointing a committee member, however, DMV is not bound by any recommendation.

(6) Meetings will be held quarterly beginning in January of each year, unless a meeting is cancelled, postponed or rescheduled as agreed to by DMV and a majority of the committee members. A committee member may be replaced by the DMV administrator for missing two consecutive quarterly meetings without good cause.

(7) DMV will consult with the committee before:

(a) Adopting administrative rules under ORS 822.035;

(b) Taking disciplinary action against a dealer under ORS 822.050 to revoke, suspend or place a dealer on probation;

(c) Levying a civil penalty against a dealer under ORS 822.009(1); or

(d) Taking disciplinary action against an Oregon dismantler under OAR 735-152-0050 to revoke, suspend or place a dismantler on probation.

(8) DMV may consult with the committee as required by section (7) of this rule at a committee meeting, or by mail, telephone, or other electronic means. DMV will provide written information on a proposed action described in section (7) of this rule to the committee members at least seven days before a committee meeting or the date a recommendation from the committee members is due. DMV may provide the written information by mail, fax, or other electronic means.

(9) The requirements of section (8) of this rule do not apply if DMV determines it must take immediate disciplinary action because the continued operation of a business regulated under ORS Chapter 822 jeopardizes public health or safety. DMV will consult with the committee before taking any action described under this section. Following the action, DMV will provide written notification of DMV's action to the committee.

(10) Recommendations of the committee and the individual committee members are advisory only and the Department of Transportation, including DMV, is not bound by any recommendation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.035
Stats. Implemented: ORS 802.370
Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 7-2009, f. & cert. ef. 3-20-09; DMV 19-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10; DMV 5-2010, f. & cert. ef. 2-25-10

735-150-0010
Definitions

As used in this division and ORS Chapter 822:

(1) "Additional (or supplemental) place of business" or "additional (or supplemental) location" means a location, other than one exempted under OAR 735-150-0020, that is more than 500 feet from any other business location of the dealer that is operated under the same name as the main business location.

(2) "Advertise" means to offer a vehicle for sale or to communicate to the public that a person is acting as a vehicle dealer, by any oral, written, or graphic means including, but not limited to, handbills, the Internet, newspapers, signs, television, billboards, radio, and telephone directories.

(3) "Agent" means any dealer possessing a current valid vehicle dealer certificate issued under ORS 822.020, who accepts applications and fees for the titling and registration of vehicles sold by the dealer and who performs such other duties related to the titling and registration of vehicles as DMV authorizes under the rules set forth in division 150.

(4) "Broker" has the same meaning as "motor vehicle broker" as defined in ORS 822.047(1).

(5) "Brokerage services" has the same meaning as defined in ORS 822.047(1).

(6) "Business day" means Monday through Saturday and does not include Sundays or State of Oregon and Federal legal holidays.

(7) "Buyer," "purchaser" and "lessee" have the same meaning as "owner" as defined in ORS 801.375.

(8) "Cancellation" has the same meaning as "revocation" as defined in section (30) of this rule.

(9) "Certified dealer" means a vehicle dealer who holds a vehicle dealer certificate issued or renewed under ORS Chapter 822.020 or 822.040.

(10) "Circumstances beyond the dealer's control," as used in ORS 822.045(3)(b) and OAR 735-150-0050(5) means:

(a) That the dealer could not get the title from any state and the prior security interest holder was paid in full by the dealer; and

(b) The delay was a result of the security interest holder failing to release title; or

(c) DMV may consider the follow mitigating circumstances if those circumstances result in the physical destruction of, or inaccessibility to, vehicle records necessary to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5):

(A) The direct result of clearly-established fraud or other criminal activity against the vehicle dealer, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or the person who actually engaged in the criminal activity. This mitigating circumstance does not apply if the dealer is the perpetrator of the wrongdoing described in this paragraph; or

(B) The direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to vehicle records to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5).

(11) "Closure" means a vehicle dealership that no longer has legal authority to conduct dealer-related activity. For example, a dealer's certificate issued under ORS 822.020 is expired, cancelled, suspended or revoked.

(12) "Clearly marked" means the notice and dealer contact information required under ORS 822.040(4)(b) and OAR 735-150-0033 is conspicuously posted on the window of each display vehicle, is in plain view of the public and is legible at a distance of six feet or more.

(13) "Date of sale," or use of similar terms to indicate the day that the sale occurred, means the date that the purchaser takes possession of the vehicle. This does not apply to vehicles purchased by a dealer at wholesale auction. With respect to auto auctions and for purposes of consignor payment under ORS 822.060(1)(d), "date of sale" means the date upon which the consigning party delivers the necessary title documents to the purchasing dealer.

(14) "Dealer" means a person who engages in any of the activities described in ORS 822.005, except those persons exempted by ORS 822.015.

(15) "Dealership," "place of business" or "business location" means a location within the State of Oregon where activities specified in ORS 822.005 take place.

(16) "Designated dealer" means a certified dealer who has been authorized to act as an agent of DMV under OAR 735-150-0040.

(17) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(18) "DMV Administrator" means the administrator of the Driver and Motor Vehicles Services Division of the Oregon Department of Transportation.

(19) "Employee" for purposes of ORS 822.015 and OAR division 150 means a person over whom a dealer exercises the type of control typically associated with an employer, including but not limited to:

(a) Determining the frequency, method and amount of compensation;

(b) Determining whether the person's work is continuous or intermittent;

(c) Determining the hours or frequency of a person's work; or

(d) Retaining the ability to terminate the relationship.

(20) "Good faith effort" as used in ORS 822.045(3) means action satisfactory to DMV that a vehicle dealer complied with the requirements set forth in OAR 735-150-0050(1) and (2).

(a) DMV will determine that the dealer's efforts are in good faith if written documentation is provided that verifies:

(A) Action(s) was taken by the dealer within ten (10) days of sale to resolve problems with providing transfer of ownership; and

(B) The dealer provided complete and timely information to the customer concerning any problems encountered and actions being taken to resolve them.

(b) DMV will not accept a good faith effort by a dealer if, before the sale of the vehicle, the dealer knows or reasonably should know that title transfer could not be completed within 30 days.

(21) "Licensed dealer" as used in ORS 822.015, 822.045 and division 150 means a person who is currently licensed as a vehicle dealer in another jurisdiction.

(22) "Location," "main business location" or "main dealership" means a location identified and listed as the dealer's main business location on the most current application for vehicle dealer certificate.

(23) "Normal business hours" means all times during which a dealer engages in any of the activities described in ORS 822.005, except as exempted by ORS 822.015.

(24) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.

(25) "Permanent revocation" means to permanently revoke a vehicle dealer certificate and the right to apply for a vehicle dealer certificate.

(26) "Probation" means a period of time specified by DMV during which a vehicle dealer may continue to operate, but only under the terms or conditions established by DMV.

(27) "Principal" means an owner, partner, corporate officer or other person who controls or manages the business organization or employees or agents of the business organization.

(28) "Purchaser" has the same meaning as buyer or lessee.

(29) "Rebuilder" means a person engaged in conducting a "vehicle rebuilding business" as specified in ORS 822.070.

(30) "Revocation" means to void and terminate a vehicle dealer certificate. Unless permanently revoked, DMV will specify the period of time before the person subject to the revocation may apply for a new vehicle dealer certificate.

(31) "Sanction" means an action taken against a vehicle dealer by DMV in cases of non-compliance, fraud, misuse or abuse of privileges granted by a vehicle dealer certificate pursuant to a violation of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers or the operation of a vehicle dealership.

(32) "Suspension" means a period of time specified by DMV during which a vehicle dealer is prohibited from:

(a) Buying, selling, trading, exchanging any vehicle or providing brokerage services. This includes, but is not limited to, providing information about price, quality, availability, payment terms, or any other information specific to the sale of a vehicle; and

(b) Acting as DMV's agent.

(33) "Violation" means any violation by a person or vehicle dealer of the Oregon Vehicle Code or any rules adopted by DMV in accordance with ORS 822.009(1) & (2).

(34) "Warning" means a documented oral warning to the principal of a dealership or a written correction notice issued to the principal, or an employee of the dealership.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 2015 Or. Laws, Ch. 111

Stats. Implemented: ORS 822.005 - 822.080 & 2015 Or. Laws, Ch. 111

Hist.: MV 7-1987, f. & ef. 7-13-87; MV 39-1989, f. & cert. ef. 10-3-89; MV 8-1991, f. & cert. ef. 7-19-91; MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 17-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0015
Dealer Applications

(1) An applicant for a vehicle dealer certificate under ORS 822.020 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Three Year Vehicle Dealer Certificate (DMV Form 735-370);

(b) A completed and signed DMV Surety Bond (DMV Form 735-370B);

(c) A completed and signed DMV Certificate of Insurance form or DMV Liability Insurance Certification of Exemption (DMV Form 735-7024);

(d) A valid government-issued photo identification for each owner, partner, principal corporate officer, etc.;

(e) All applicable fees; and

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(a); or

(B) A completed and signed DMV Education Requirements Certification of Exemption (DMV Form 735-370C), if an applicant is exempt from the education and test requirements under ORS 822.027(2).

(2) An applicant for a renewal of vehicle dealer certificate under ORS 822.040 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Three Year Vehicle Dealer Certificate (DMV Form 735-370);

(b) A completed and signed DMV Surety Bond form (DMV Form 735-370B), if the applicant is submitting a new bond, or proof acceptable to DMV that a valid surety bond is in effect at the time of renewal. Proof includes, but is not limited to a notation on DMV records or other evidence acceptable to DMV that the required bond is in effect.

(c) A completed and signed DMV Certificate of Insurance form or DMV Liability Insurance Certification of Exemption (DMV Form 735-7024);

(d) A valid government-issued photo identification for each owner, partner, principal corporate officer, etc.;

(e) All applicable fees; and

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(b); or

(B) A completed and signed DMV Education Requirements Certification of Exemption (DMV Form 735-370C), if an applicant is exempt from the education and test requirements under ORS 822.027(3).

(3) In addition to the requirements of sections (1) and (2) of this rule, the applicant must submit a completed and signed DMV Supplemental Dealer/Rebuilder Vehicle Dealer Certificate Application (DMV Form 735-372) for each additional business location other than the dealer's primary business location.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 803.030, 822.020, 822.025, 822.027, 822.040

Stats. Implemented: ORS 802.012, 803.030, 822.020, 822.025, 822.027, 822.040 & 822.050

Hist.: DMV 4-1996, f. & cert. ef. 7-26-96; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 5-2011, f. & cert. ef. 4-22-11; DMV 14-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0017
Acting as a Vehicle Dealer

This rule describes certain circumstances under which an owner or lessor of real property is considered to be acting as a vehicle dealer without a certificate pursuant to ORS 822.005(1). The rule is not intended to limit DMV's authority to require a person to obtain a certificate, or to find a person in violation of ORS 822.005 for acting as a vehicle dealer without a valid certificate in any circumstance that violates the terms of ORS 822.005(1), unless the person has an exemption under ORS 822.015.

(1) An owner or lessor of real property must hold a valid vehicle dealer certificate pursuant to ORS 822.005(1), if the owner

or lessor receives compensation of any type for the display or sale of vehicles on the property, and performs any of the following:

(a) Advertises or pays for advertising for any individual vehicle(s) displayed for sale either on-site, electronically or in print media;

(b) Answers any questions related to the terms of sale or consignment for any vehicle displayed for sale;

(c) Shows to any person any vehicle displayed for sale;

(d) Provides or pays for individual "for sale" signs for any vehicle displayed for sale;

(e) Cleans, prepares or otherwise physically maintains any vehicle displayed for sale;

(f) Provides or offers to provide financing for any vehicle displayed for sale;

(g) Prepares or provides any forms necessary for the titling or registration of any vehicle displayed for sale; or

(h) Performs any maintenance, body repair or mechanical services related to any vehicle part or component on any vehicle displayed for sale.

(2) This rule does not apply to a person who rents or leases property to a vehicle dealer who possesses a current vehicle dealer certificate, to the extent that the real property or any portion thereof is actually used by the dealer.

Stat. Auth.: ORS 184.616, 184.619, 822.009 & 822.035
Stat. Implemented: ORS 822.005, 822.009, 822.015 & 822.035
Hist: DMV 17-2002, f. & cert. ef. 9-20-02; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0020
Exemptions From Vehicle Dealer Certification Requirement

(1) A person who rents or leases space to a vehicle dealer who holds a current valid certificate is not a dealer as defined in OAR 735-150-0010.

(2) The following apply where there is a formal display of vehicles, such as an auto show, by a group of dealers for a period of ten (10) days or less:

(a) Except as otherwise provided in this section and ORS 822.015(3), a dealer participating in a display must either be a certified vehicle dealer or a manufacturer of vehicles not engaged in sales to the public;

(b) A person who only rents or leases space to a participating dealer does not need a vehicle dealer certificate;

(c) A certified vehicle dealer does not need a supplemental certificate; and

(d) This section does not apply to RV shows held in accordance with OAR 735-150-0045.

(3) The exemption in ORS 822.015(1)(b) will be narrowly construed to exempt from dealer regulatory requirements only those persons who engage in buying, selling or exchanging vehicles as a mere incident to their personal ownership and use of those vehicles. This includes a business or corporate entity that holds such vehicles primarily for its own transportation needs, but not primarily for sale or exchange. No person may apply for certificates of title for the purpose of avoiding dealer regulatory requirements while dealing in vehicles.

(4) A person is not a rebuilder if that person:

(a) Is an employee of a certified vehicle dealer; or

(b) Is engaged solely in the repair of damaged vehicles at the request of the registered owner(s) of the vehicle(s).

(5) An employee of a dealer as defined in 735-150-0010(14) is not required to have a separate dealer certificate in order to buy or sell vehicles on behalf of his or her employer.

(6) A certified vehicle dealer does not need a supplemental certificate for the location of an auction conducted by the dealer. This exemption applies when all the following conditions exist:

(a) Vehicles sold at the auction are consigned to the dealer;

(b) Vehicles are sold on the basis of the highest bid or most favorable offer;

(c) The auction does not exceed three (3) consecutive days; and

(d) The dealer does not own the property where the auction is conducted. If the dealer rents or leases the property where the auction is conducted, the rent/lease period must not exceed three (3) consecutive days.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.015, 822.035 & 2015 Or. Laws, Ch. 111
Stats. Implemented: ORS 822.015 & 2015 Or. Laws, Ch. 111
Hist.: MV 7-1987, f. & ef. 7-13-87; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0024
Investigation of Certificate Applications

(1) DMV will investigate applications for original or renewal vehicle dealer certificates on a random basis to determine whether the information contained in the application is accurate and complete and may do so whenever DMV has reason to believe the application is not accurate or complete.

(2) DMV will investigate all applications for original or renewal vehicle dealer certificates to determine if any of the principals of the applicant dealer are or have been financially or operationally involved with any other dealer whose certificate or right to apply for a certificate is currently or has been on probation, suspended, canceled or revoked.

(3) Pursuant ORS 822.035(1), (8), and (9), DMV will investigate an applicant who indicates on the vehicle dealer certificate application that his or her vehicle dealer certificate has been revoked or is currently suspended in another jurisdiction.

(4) DMV may inspect the location from which the applicant proposes to transact business in order to ensure compliance with the requirements of OAR 735-150-0030 and with any restrictions imposed by any local governing body.

(5) DMV may, at any time during or after the application process, investigate to certify compliance with the requirements of ORS 822.025.

(6) DMV may investigate any other matters related to an application as it deems necessary within the limits of its authority.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.050
Stats. Implemented: ORS 822.035
Hist.: MV 8-1991, f. & cert. ef. 7-19-91; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0027
Refusal to Issue or Renew Vehicle Dealer Certificate

(1) DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines the application is incomplete or information contained in the application is false.

(2) DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer is financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked. Additionally, DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer was within one (1) year of the date of the application financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked.

(3) DMV will issue an original or renewal vehicle dealer certificate on a probationary basis when it determines a principal of the applicant dealer is financially or operationally involved with any other dealer whose certificate or right to apply for a certificate is currently on probation. The probationary status of the new certificate will expire and attain regular status on the same date the probation period ends for the other dealership.

(4) As provided in ORS 822.035(8) and (9), DMV will not issue a vehicle dealer certificate under 822.020 to an applicant who has been issued a similar certificate from another jurisdiction that has been revoked or is currently suspended unless the applicant possesses a current, valid vehicle dealer certificate issued under 822.020. Nothing in this section precludes a vehicle dealer who holds a current, valid vehicle dealer certificate issued under 822.020 from obtaining a vehicle dealer certificate under 822.020

or a supplemental certificate under 822.040 or to renew a certificate under ORS 822.040.

(5) DMV will not issue an original or renewal vehicle dealer certificate until such time as it is satisfied the applicant meets all requirements for issuance of a certificate found in ORS Chapter 822 and OAR chapter 735, division 150.

(6) DMV will not issue an original vehicle dealer certificate to an applicant whose business name is identical to or indistinguishable from an existing dealer name. DMV may consider geographic location and other factors at its discretion when determining the ability to distinguish between two similarly named dealerships.

(7) When DMV refuses to issue a vehicle dealer certificate, DMV will retain the fees submitted with the application to cover the cost of processing the application.

(8) An applicant who has been refused issuance of a vehicle dealer certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(9) The refused applicant's request for a hearing must be submitted in writing to and received by DMV within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing. In the case of a refusal to renew, the dealer may continue to operate under the old certificate in accordance with ORS 183.430(1), pending the outcome of the hearing, except when the agency finds that such continued operation would constitute a serious danger to the public health or safety and extends the hearing request period to 90 days in accordance with ORS 183.430(2).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.050
Stats. Implemented: ORS 822.050
Hist.: MV 8-1991, f. & cert. ef. 7-19-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0030
Dealer Location Regulations

(1) Except as permitted under section (2) of this rule, each business location established by a dealer must:

(a) Have sufficient space to display one or more vehicles of the type the dealer has been issued a certificate to sell;

(b) Provide a means for the public to contact the dealer or an employee of the dealer at all times during the dealer's normal business hours;

(c) Display an exterior sign, permanently affixed to the land or a building, that identifies the dealership by the name printed on the vehicle dealer certificate, with letters clearly visible to the major avenue of traffic; and

(d) Display, in a publicly accessible and conspicuous manner, the vehicle dealer certificate.

(2) Where zoning or local ordinance prevent compliance, DMV may exempt a dealer from the requirements of subsections (1)(a), (b), or (c) of this rule if the dealer:

(a) Submits a written request for the exemption(s) to DMV documenting why an exemption should be granted;

(b) Agrees to an on-site inspection if required by DMV to determine the validity of the request and to seek reasonable alternatives to the exemption(s) requested; and

(c) Complies with any alternative proposed by DMV that substantially meets the requirements for the exemption requested.

(3) All locations from which a rebuilder conducts a "vehicle rebuilding business" as described in ORS 822.070 must be listed on an application for a vehicle dealer certificate as either the main business location or a supplemental business location. Each location must comply with the requirements of section (1) of this rule unless an exemption under section (2) of this rule is granted.

(4) The following apply to dealer locations, unless exempt under OAR 735-150-0020:

(a) A dealer must have a certificate or supplemental certificate for each location where the dealer sells or displays vehicles for sale. A dealer who uses a supplemental place of business, must have a supplemental certificate from DMV before business can be conducted at the supplemental location; and

(b) A dealer who moves a place of business or changes the business name must submit a completed and signed DMV Application to Correct Dealer/Rebuilder Vehicle Dealer Certificate and obtain a corrected dealer certificate before business can be conducted.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.025, 822.035 & 822.040
Stats. Implemented: ORS 822.020, 822.035 & 822.040
Hist.: MV 7-1987, f. & ef. 7-13-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0057; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f.& cert. ef. 8-20-98; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05

735-150-0033
Display of Vehicles for Advertising

In addition to the requirements of ORS 822.040(4), to display a vehicle for advertising at a location other than a dealership, a dealer must meet the following requirements:

(1) Have a signed agreement with the owner of the property before a vehicle is displayed that includes all of the following:

(a) The beginning and ending date of the display, not to exceed 30 calendar days;

(b) The name, address and phone number of the dealer or dealership and the certificate number of the dealer's main business location;

(c) The name of the dealer or dealer's representative who signs the agreement;

(d) A description of each vehicle to be displayed, including vehicle identification number, make, model and year;

(e) A signed and dated certification, stating that both the dealer and the property owner will abide by all applicable laws, rules and ordinances;

(f) The name, address and phone number of the business or property owner where a vehicle will be displayed. If a business, the business name must be the name registered with the Oregon Secretary of State; and

(g) The name of the signatory authorized to enter into agreements on behalf of the business or property owner.

(2) No more than five vehicles may be displayed on the property at the same time for advertising purposes. This total includes vehicles from any vehicle dealership.

(3) In addition to records required under OAR 735-150-0035, the dealer must maintain records that include copies of the agreement and notice required under ORS 822.040(4) and this rule. Records must be maintained at the business or property where vehicles are displayed for the duration of the agreement. Upon expiration of the agreement, records must be maintained for a period of two (2) years on the premises of the dealer's main business location.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.009, 822.035 & 822.045
Stats. Implemented: ORS 822.009, 822.030, 822.035 & 822.045
Hist.: DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06

735-150-0035
Dealer Records

(1) The original records required to be maintained by dealers pursuant to all applicable provisions of ORS Chapter 822 and OAR chapter 735, division 150 or documenting compliance with any of these provisions, must be maintained for a period of two (2) years on the premises of the main business location. Where a dealer has an additional (or supplemental) location pursuant to a valid supplemental certificate, all original records required to be maintained for that particular location must be maintained for two (2) years either at the main business location or at the additional (or supplemental) location, at the option of the dealer. For good cause shown or upon a showing of a business necessity, DMV, in its sole discretion, may authorize a dealer to maintain its dealer records at a location within the State of Oregon other than that required by this section.

(2) In addition to the requirements described in section (1) of this rule, dealer records must be maintained for an additional three-year period in any location within the State of Oregon that is convenient for the dealer. During this three-year period the dealer may, at the dealer's option, maintain the original dealer records or an exact copy of the original records in hard copy, on film, or elec-

tronically. If first approved by DMV, an exact copy of the dealer's original records may be stored in some other manner during this three-year period.

(3) Dealer records subject to this rule must be maintained in a manner allowing for timely and efficient retrieval of any record requested by DMV or a police officer for inspection. DMV or a police officer may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.

(4) DMV may inspect dealer records including books, contracts, documents, letters and records of any type, including electronic and paper records, of any certified vehicle dealer when DMV is investigating a potential violation of Oregon Vehicle Code.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035 & 822.042
Stats. Implemented: ORS 822.035, 822.042 & 822.045
Hist.: DMV 10-2001, f. & cert. ef. 6-14-01; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0037
Records; Satisfying Prior Interest; Providing Clear Title

This rule establishes the records vehicle dealers must maintain to comply with ORS 822.045(1) and OAR 735-150-0035.

(1) "Other primary ownership document" as used in ORS 822.040(1)(j), as amended by Chapter 21, Oregon Laws 2014, and this rule has the same meaning as set forth in OAR 735-020-0010.

(2) Vehicle dealers must satisfy the interest in a vehicle they purchase within 15 days of transfer or receipt of clear title pursuant to ORS 822.045(1)(j) and OAR 735-150-0035. To verify that they have complied with this requirement, dealers must maintain records that show:

(a) The date a vehicle consumer transferred any interest in a vehicle or camper to a dealer.

(b) The date a purchasing dealer receives clear title from another dealer on a vehicle or camper. This date is either the date:

(A) The purchasing dealer took physical possession of the certificate of title or other primary ownership document, including who it was received from; or

(B) Written notice was mailed by certified or registered mail, return receipt requested, to the purchasing dealer that the certificate of title was available for pickup at a time and place prearranged by the purchasing dealer and the dealer.

(c) The date the purchasing dealer satisfied:

(A) The interest of any person from whom the dealer purchased or obtained the vehicle or camper;

(B) The interest of any person from whom a vehicle consumer leased the vehicle or camper; and

(C) Except as provided by 822.045(2), all security interests in the vehicle or camper entered into before the date of transfer.

(D) The interest of the dealer from which the purchasing dealer received the certificate of title or other primary ownership document.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035, 822.042, 822.045, 2014 OL Ch. 21
Stats. Implemented: ORS 822.009, 822.035, 822.042, 822.045 & 2014 OL Ch. 21
Hist.: DMV 20-2002, f. & cert. ef. 10-14-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 4-2014(Temp), f. & cert. ef. 5-19-14 thru 11-14-14; DMV 12-2014, f. & cert. ef. 10-28-14; DMV 14-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0039
Qualifications for Designation of Dealer as Agent

A dealer who possesses a valid Oregon vehicle dealer certificate issued pursuant to ORS 822.020 or renewed pursuant to ORS 822.040 must meet the qualifications in section (1) through (3) of this rule in order to be appointed and to continue to act as DMV's agent and to perform the duties permitted by OAR 735-150-0040(4):

(1) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not:

(a) Be currently suspended as a vehicle dealer in Oregon;

(b) Have been convicted of any felony, including a conviction based on a plea of nolo contendere, in any jurisdiction within the prior 10 years;

(c) Have been convicted of any misdemeanor, including a conviction based on a plea of nolo contendere, in connection with selling or otherwise dealing in motor vehicles, or for fraud, identity theft, misrepresentation, forgery or conversion, in any jurisdiction within the prior 10 years;

(d) Have been found to have committed a violation of Oregon Vehicle Code, state or federal law, rule, or regulation related to fraud, misrepresentation, forgery or conversion within the prior 10 years; or

(e) Have been found liable in a civil action in which a judgment is issued for committing any act of fraud, conversion or misrepresentation within the prior 10 years.

(2) A dealer must remain in continued compliance with the provisions of ORS 822.025(3) and (5).

(3) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not issue DMV a dishonored check or other form of non-negotiable payment.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.031, 822.035 & 822.042
Stats. Implemented: ORS 822.020, 822.025, 822.035, 822.040, 822.042 & 822.045
Hist.: DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0040
Designation of Dealers as Agents

(1) Persons issued a dealer certificate under ORS 822.020 and who meet the qualifications set forth in OAR 735-150-0039, are designated as DMV's agent pursuant to ORS 802.031 and may perform the duties of an agent as identified in section (4) of this rule.

(2) Snowmobile dealers and Class I, Class III and Class IV all-terrain vehicle dealers are designated as agents of DMV pursuant to ORS 802.031.

(3) DMV may impose sanctions against a dealer's agent status as provided in OAR 735-150-0120.

(4) An agent of DMV may:

(a) Prepare, submit, or prepare and submit documents and collect fees necessary to title and register vehicles they sell, as provided in OAR 735-150-0050;

(b) Participate in DMV's Electronic Vehicle Registration (EVR) program if approved under OAR 735-150-0041;

(c) Perform vehicle identification number inspections on vehicles they sell, as provided in OAR 735-022-0070, when the vehicle has been registered or titled in another jurisdiction subject to the limitations of OAR 735-022-0070;

(d) Issue temporary registration permits for unregistered vehicles they sell, as provided in ORS 803.625 and OAR 735-150-0060;

(e) Issue trip permits for unregistered vehicles they sell, as provided for in OAR 735-150-0070 and 735-150-0080;

(f) Issue 10-day trip permits for registered vehicles they sell, as provided in ORS 803.600, OAR 735-150-0070, 735-150-0080 and 735-034-0010. When issuing a 10-day trip permit as described in this subsection, a vehicle dealer:

(A) Must ensure any Oregon registration stickers have been removed from the registration plates in accordance with ORS 803.600;

(B) May not issue more than two permits for the same motor vehicle; and

(C) Must require the person applying for the permit to provide the insurance company name and policy number on the permit, and sign the certificate on the permit stating that the motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid; and

(g) Except as provided under section (9) of this rule, prepare, submit, or prepare and submit documents and collect fees for transfers of registration plates, for vehicles they sell, in accordance with OAR 735-150-0050.

(5) A dealer who, on behalf of a purchaser, prepared, submitted, or prepared and submitted documents and collected fees

necessary to title and register a vehicle and who then receives from DMV the registration plates, stickers or temporary registration for the vehicle, must ensure delivery of the items obtained to the purchaser. Within five working days of receipt from DMV, the dealer must:

(a) Deliver the items to the purchaser;

(b) Mail the items to the purchaser; or

(c) Advise the purchaser the items are at the dealership and, if the purchaser agrees, arrange to have the items picked up at the dealership.

(6) The dealer must document in the dealer's records the actions taken by the dealer to notify the purchaser or to deliver the registration plates, stickers and temporary registration.

(7) No dealer may, as a result of a dispute between the purchaser and dealer or for any other reason, withhold registration plates or stickers or temporary registration from the purchaser.

(8) Designated agents must only charge title, registration or plate transfer fees in the amount authorized by Oregon Revised Statutes and Oregon Administrative Rule when collecting such fees on behalf of DMV.

(9) A dealer may not prepare, submit, or prepare and submit an application and collect fees for the transfer of plates under subsection (4)(g) of this rule if the dealer determines the plates the purchaser wants to transfer are not from a current issue of plates, are not customized plates described under ORS 805.240 or are so old, damaged, mutilated or otherwise rendered illegible as to be not useful for purposes of identification.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.031, 803.530, 803.600, 803.625, 821.060 & 821.080

Stats. Implemented: ORS 802.031, 803.565, 803.600, 803.602, 803.645, 821.060, 821.080, 822.005 & 822.080

Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 2-1985, f. & ef. 1-30-85; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0007; MV 39-1989, f. & cert. ef. 10-3-89; MV 8-1991, f. & cert. ef. 7-19-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 5-1998(Temp), f. & cert. ef. 4-30-98 thru 10-26-98; DMV 13-1998, f. & cert. ef. 10-15-98; DMV 7-2000, f. & cert. ef. 8-10-00; DMV 28-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 9-2004, f. & cert. ef. 5-24-04; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 10-2011, f. 10-26-11, cert. ef. 1-1-12; DMV 1-2015, f. & cert. ef. 4-20-15

735-150-0041
Dealer Applications to Participate in the Electronic Vehicle Registration Program

(1) Dealers who wish to participate in the Electronic Vehicle Registration (EVR) Program must submit an application to a DMV-approved EVR Integrator. DMV Business Regulation will review all EVR applications, and except as described under section (3) of this rule, will approve all completed and signed applications.

(2) DMV may, at its discretion, conduct an inspection of the dealer's business location(s) before approving an application. The scope of the inspection will include a review of the location(s) to determine whether there is adequate security for the storage of registration materials and the handling of confidential records.

(3) DMV may deny an application to participate in the EVR program for any of the following reasons:

(a) The dealer's certificate has been in effect for less than 180 days of the date of application.

(b) Within one year of the date of application, DMV issued a correction notice to the dealer for any violation of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers.

(c) The dealer's certificate has been cancelled, suspended or subject to probation by DMV within 5 years of the date of application.

(d) The dealer has failed to pay any civil penalty imposed by DMV or the Oregon Department of Justice.

(e) The dealer is not currently qualified to act as DMV's agent pursuant to OAR 735-150-0039.

(f) The dealer's location failed to pass a business location inspection as described under section (2) of this rule. A dealer whose application is denied under this subsection may reapply after the dealer implements appropriate security measures or safeguards to the satisfaction of DMV.

(4) DMV will notify the appropriate EVR integrator of the outcome of the application review as set forth under this rule. The integrator will convey the outcome to the dealer-applicant. If the application was denied, the notification will give the basis and reason for the denial and the earliest date the dealer-applicant can reapply for the EVR program.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 802.031

Stats. Implemented: ORS 802.031

Hist.: DMV 1-2015, f. & cert. ef. 4-20-15

735-150-0042
Vehicle Consignments

For purposes of ORS 822.015 and 822.060, only a certified dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 may take and sell vehicles on consignment from other jurisdictions.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.015, 822.060 & 2009 OL Ch. 551

Stats. Implemented: ORS 822.015, 822.060 & 2009 OL Ch. 551

Hist.: DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10

735-150-0045
Special Rules Concerning Recreational Vehicle Dealers

(1) The purpose of this rule is to:

(a) Establish a process for issuing recreational vehicle (RV) show licenses and establish a fee for RV show licenses; and

(b) Clarify ORS 822.025(9) concerning maintenance of a service facility by RV dealers.

(2) Nothing in this rule is intended to limit or conflict with any other rule or law governing RV dealers.

(3) Definitions. As used in this rule and ORS 822.082 through 822.084:

(a) "Primary purpose" means that at least 51% of the RV service facility's income-producing activity is derived from the service and repair of recreational vehicles, as shown by gross service receipts;

(b) "Prominently display" means clearly and conspicuously posted in plain view in the area most frequently visited by the public and legible at a distance of six feet or more. For example, the main entrance of an RV show or the main lobby of an RV dealer;

(c) "Recreational vehicle service facility" means a permanent facility listed on the vehicle dealer's certificate and having the primary purpose of servicing and repairing RVs;

(d) "RV" means a recreational vehicle, as defined in ORS 446.003(37); and

(e) "Show license" means a license issued by DMV pursuant to ORS 822.084.

(4) Application for show license. The show organizer must submit an application for a show license to DMV, Business Regulation Section, no sooner than 60 days before the first day of the proposed show, and not later than 30 days before the first day of the proposed show. The show license application must be on a form provided by DMV and must include the following:

(a) The name, address and telephone number of the show organizer;

(b) The total number of days of the show, the date(s), location and times of the show;

(c) The date of the application for the show license;

(d) For each dealer displaying at the show the following information as listed in the dealer's main location application:

(A) The name under which the business is conducted;

(B) The street address, city and county of the dealer;

(C) The dealer number; and

(D) The expiration date of the dealer certification.

(e) That the show will include two or more recreational vehicle dealers, one of whose place of business as listed in the dealer's main location application is located more than 50 miles from the site of the show and the number of dealers participating in the RV show;

(f) Whether or not the public will be charged an admission fee;

(g) A show license application may be amended to add or delete show participants, or to correct information if submitted to DMV Business Regulation Section no later than 30 days before the date of a prospective show. In the event a participant printed on a show license is unable to attend or withdraws from the show after the 30th day, the organizer must mark a line on the approved show license using black ink through the name of that participant.

(5) Issuance and Display of License. DMV will issue a show license to the organizer, authorizing the listed dealers to participate in the RV show if the application is complete, the fee established under ORS 822.700 is paid and all other requirements are met. The show license must be conspicuously posted at the main entrance to the RV show for each day of the show and must be available for inspection by DMV.

(6) Service Facility. Vehicle dealers that sell new RVs must maintain, within Oregon, a recreational vehicle service facility that has the primary purpose of servicing and repairing recreational vehicles. The location of the recreational vehicle service facility must be prominently displayed at the RV dealer's sales site. In order to meet the requirement that the vehicle dealer "maintain" a recreational vehicle service facility, the dealer must own or lease the service facility and directly conduct the servicing and repair operation, without subcontracting.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.035, 822.040, 822.084 & 2013 OL Ch. 372

Stats. Implemented: ORS 184.616, 184.619, 802.010, 822.035, 822.040, 822.084 & 2013 OL Ch. 372

Hist.: DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 24-2013, f. 12-20-13, cert. ef. 1-1-14

735-150-0047
Rules Concerning Dealer-Only Auctions

(1) For purposes of ORS 822.015(3), as amended by section 1, chapter 111, Oregon Laws 2015, and this rule, the follow definitions apply:

(a) "Certified dealer" has the same meaning as defined in OAR 735-150-0010.

(b) "Employee" for the purposes of this rule and as defined in OAR 735-150-0010 means a person over whom a dealer exercises the type of control typically associated with an employer, including but not limited to:

(A) Determining the frequency, method and amount of compensation;

(B) Determining whether the person's work is continuous or intermittent;

(C) Determining the hours or frequency of a person's work; or

(D) Retaining the ability to terminate the relationship.

(c) "Licensed dealer" for the purposes of this rule and as defined in OAR 735-150-0010 means a person who is currently licensed as vehicle dealer in another jurisdiction.

(d) "Vehicle auction" means a vehicle auction conducted by a certified dealer as authorized under ORS 822.015, in which only certified dealers, licensed dealers or their employees are permitted to participate.

(2) An employee of a certified or licensed dealer who wishes to participate in a vehicle auction must present proof to the certified dealer conducting the auction before the employee may participate in the auction. Proof that an individual is an employee as defined in section (1)(b) of this rule, includes but is not limited to any of the following:

(a) Written authorization issued from a certified or licensed dealer that names the individual as an employee and a copy of the authorizing dealer's certificate or license, whichever is applicable. The copy must include the following:

(A) The dealer's certificate or the dealer's license, whichever is applicable;

(B) The business name under which the dealer is registered to do business and the street address and telephone number of the business;

(C) The business type of the dealer or dealership, for example, a sole proprietorship, partnership, limited liability company, corporation, etc.); and

(D) The name, address and phone number of an individual authorized by the dealer as the contact person for the dealer on any matter related to a dealer's certificate or license.

(b) A current valid picture identification card issued by a certified dealer, licensed dealer, or a dealer registration identification business that maintains a database of vehicle dealers or dealer employees.

(c) Any other form of authorization, documentation or identification, sufficient to a vehicle auction or DMV that the individual is an employee. Information provided under this subsection is subject to verification by the auction or DMV by telephone, fax, or other electronic means.

(3) In addition to the proof described under section (2) of this rule, upon request of a vehicle auction or DMV, an employee must provide proof of personal identification. Proof of personal identification under this section includes, but is not limited to the following photo identification:

(a) A current valid driver license or identification card issued by Oregon or another jurisdiction;

(b) A current valid vehicle salesperson license or employee license, if required in the jurisdiction;

(c) A current valid passport; or

(d) Any other form of photo identification, sufficient to establish the identity of the individual to the satisfaction of a vehicle auction or DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.015, 822.035 & 2015 Or. Laws, Ch. 111

Stats. Implemented: ORS 822.015 & 2015 Or. Laws, Ch. 111

Hist.: DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0050
Preparation and Submission of DMV Documents and Fees

(1) A dealer who elects to submit DMV documents and fees necessary to title or register a vehicle, must submit them to DMV within 30 calendar days of the transfer of interest in the vehicle. This includes all fees and documents required to obtain title and, if applicable, registration on behalf of the purchaser.

(2) If a dealer does not elect to submit the DMV documents and fees necessary to title or register a vehicle, but instead allows the purchaser to submit the documents and fees, the dealer must within 25 calendar days of the date of transfer furnish to the new owner the title or other acceptable ownership documents. This includes all the documents needed to apply for title to the vehicle.

(3) Snowmobile dealers who sell snowmobiles that are subject to title and registration requirements must collect fees and submit to DMV title and registration applications on behalf of the purchaser. Class I ATV dealers who sell ATVs that are subject to title and registration requirements must collect fees and submit title and registration applications to DMV on behalf of the purchaser. If a snowmobile or Class I ATV being sold by a dealer is exempt from Oregon title and registration, section (2) of this rule applies.

(4) A dealer who does not comply with sections (1) or (2) of this rule must provide written notice of delay to all owners and parties of interest within 25 business days of the date of transfer of title or interest. The notice of delay must contain:

(a) The reason for the delay;

(b) The anticipated extent of the delay; and

(c) A statement of the rights and remedies available to the purchaser if the delay becomes unreasonably extended. DMV will consider "unreasonably extended" to mean 45 calendar days from the date of sale. The statement must inform the purchaser of his or her right to file complaint against the dealer with DMV if the delay goes beyond 45 days from date of purchase.

(5) A dealer must maintain records that show compliance with the requirements of this rule. If a dealer does not comply with the requirements of sections (1) or (2) of this rule, the dealer's records must contain sufficient documentation to establish that the dealer

made a good faith effort to comply and that the dealer's inability to comply is due to circumstances beyond the dealer's control.

(6) A dealer must refund any collected fee that exceeds the appropriate fee within five (5) calendar days of discovery.

Stat. Auth.: ORS 184.616, 802.031, 821.060, 802.010, 821.080, 822.035 & 822.042
Stats. Implemented: ORS 821.060, 821.080, 822.035 & 822.042
Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0008; MV 39-1989, f. & cert. ef. 10-3-89; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 1-1997, f. & cert. ef. 1-17-97; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06

735-150-0055
Dealer Document-Processing Fee; Inspection

(1) Dealers must implement procedures to ensure that any document processing fee charged to a vehicle purchaser does not exceed the amount authorized under ORS 822.043(4). Collected fees that exceed the authorized amount must be refunded to the vehicle purchaser within five (5) business days of discovery.

(2) DMV may inspect dealer records for compliance with ORS 822.043(4) and may refer information related to non-compliance to the Department of Justice, or any other enforcement agency.

Stat. Auth.: ORS 184.616, 814.619, 802.010, 822.009, 822.035 & 822.045
Stats. Implemented: ORS 822.009, 822.030, 822.035 & 822.045
Hist.: DMV 22-2001(Temp), f. & cert. ef. 10-17-01 thru 4-14-02; DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 25-2010, f. 12-22-10, cert. ef. 1-1-11; DMV 9-2015, f. 11-17-15, cert. ef. 1-1-16

735-150-0060
Issuance of Temporary Registration Permits

(1) A designated dealer who collects and submits title and registration fees to DMV on behalf of a purchaser may issue temporary registration permits as provided for in ORS 803.625 for vehicles or campers that the dealer sells, pending receipt of permanent registration plates from DMV. A temporary registration permit may not be issued unless both title fees and registration fees have been collected and a combined title and registration application is to be submitted to DMV by the dealer on behalf of the owner.

(2) A temporary registration permit may not be issued by a designated dealer until a Department of Environmental Quality (DEQ) Certificate of Compliance, if needed, has been obtained. A trip permit may be issued as provided in OAR 735-150-0070(1)(b) and (6)(b) if the vehicle must be taken to a DEQ inspection station.

(3) Temporary registration permits must be obtained in bulk from the Salem DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314. There is no charge for temporary registration permits. A designated dealer may not charge a fee for the issuance of a temporary registration permit.

(4) Temporary registration permits are valid for a period not to exceed 90 consecutive days from the date they are issued or until plates and, if applicable, stickers are received from DMV and placed on the vehicle, whichever occurs first. A dealer may not extend the expiration date of a temporary registration permit or issue a subsequent permit to extend the registration period of the initial permit.

(5) A designated dealer must comply with the following requirements when issuing temporary registration permits:

(a) Legibly complete each temporary registration permit with the following information:

(A) The name and address of the person(s) or business registering as the owner(s) of the vehicle. The name and address must only be recorded on the issuer's copy and DMV's copy of the permit and must not be recorded on the purchaser's (windshield) copy of the permit;

(B) The driver license number and the state of issuance for the person(s) registering as the owner(s) of the vehicle, unless the person does not have a driver license or the permit is issued to a business. The driver license number must only be recorded on the issuer's copy and DMV's copy of the permit and must not be recorded on the purchaser's (windshield) copy of the permit;

(C) The vehicle description, including year, make, body style and identification number;

(D) A written signature of the employee who issued the permit. Initials are not acceptable;

(E) The effective date and expiration date of the permit. The permit must only be issued for a period not to exceed 90 consecutive days, including the effective date of the permit;

(F) Dealer certificate number; and

(G) The title fee and registration fee collected on behalf of DMV.

(b) DMV's copy of the temporary registration permit attached to, and submitted with, the application for title and registration.

(c) At the time of issuance, notify an owner who pays a plate transfer fee under section (1) of this rule to not attach the registration plates from their old vehicle to the vehicle or camper sold by the dealer before receiving an updated registration card from DMV.

(6) To be valid, the owner's (window) copy of a temporary registration permit must be affixed to the vehicle for which the permit is issued as specified by DMV on the permit.

(7) The DMV (issuer's) copy of the temporary registration permit must remain attached in the permit book. Once all permits have been issued from a book, the book and issuer's copies must be returned to DMV.

(8) Alteration of a temporary registration permit will automatically void the permit.

(9) When a temporary registration permit is voided for any reason, the owner's (window) copy and DMV's (issuer's) copy of the permit, together with a written explanation about why the permit was voided, must be left in the book and must be returned to DMV as described in section (7) of this rule. If either copy of the permit is unavailable for submission to DMV, a written explanation as to why the copy is unavailable must be included with the book.

(10) Except as permitted in section (11) of this rule, temporary registration permits (or books of permits) may not be loaned to another dealer or person or issued for vehicles sold by another dealer or individual.

(11) A dealer who delivers a vehicle to a purchaser and submits applications and fees for title and registration in the purchaser's name on behalf of another dealer who sold the vehicle to the purchaser, may issue a temporary registration permit for the vehicle as provided by this rule. The application and supporting documents must accurately reflect the name and address of the dealer who sold the vehicle. The temporary registration permit must show the name and dealer number of the issuing dealer and the words "Delivery Only" must be clearly written on the DMV and issuer's copies of the permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.031, 803.625, 803.640 & 822.035
Stats. Implemented: ORS 803.625
Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0011; MV 6-1989, f. & cert. ef. 1-27-89; DMV 9-1995, f. & cert. ef. 8-18-95; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 3-2000(Temp), f. & cert. ef. 4-24-00 thru 10-20-00; DMV 7-2000, f. & cert. ef. 8-10-00; DMV 23-2002, f. & cert. ef. 11-18-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0070
When Trip Permits May Be Issued by Dealers

(1) Pursuant to ORS 803.600, OAR 735-034-0010 through 735-034-0040 and this rule, a designated dealer may issue light vehicle and recreational vehicle trip permits for the vehicles they sell providing:

(a) The vehicle purchaser or lessee is not subject to Oregon registration requirements and must operate the vehicle over Oregon highways to leave the state.

(b) The vehicle is to be driven directly to a Department of Environmental Quality (DEQ) inspection station in order to receive a certificate of compliance with pollution control equipment before applying for registration;

(c) The vehicle is to be driven directly to a DMV office or a law enforcement agency for a vehicle identification number inspection (VIN); or

(d) The dealer is not submitting the application for transfer of title and registration on behalf of the purchaser or lessee and the purchaser or lessee must operate the vehicle until they can get to a DMV office.

(e) This subsection does not apply to 10-day trip permits.

(2) In addition to the trip permits described in section (1) of this rule, a vehicle dealer may issue 10-day trip permits for vehicles they sell providing:

(a) Before issuance, the dealer ensures the Oregon registration stickers have been removed in accordance with ORS 803.565;

(b) The dealer complies with all applicable provisions of ORS 803.600 and OAR 735-034-0010 through 735-034-0040;

(c) The dealer is not submitting the application for transfer of title and registration on behalf of the purchaser or lessee and the purchaser or lessee must operate the vehicle until they can get to a DMV office;

(d) The 10-day permits are issued specifically for the purpose of registering the vehicle. For purposes of ORS 803.600 and this section, "registering the vehicle" means authorization to operate a vehicle to obtain:

(A) Title, registration or new registration stickers from DMV; or

(B) A (VIN) inspection or DEQ inspection before DMV may issue title, registration or new registration stickers as described under this subsection.

(3) Trip permits must be purchased in bulk in advance from DMV's Salem headquarters office.

(4) A designated dealer may charge and retain a fee for a trip permit issued by the dealer but may not charge more than the fee provided in ORS 803.645 for the permit.

(5) Each trip permit is valid for a period of consecutive days; 21 days for a light vehicle trip permit and 10 days for a recreational vehicle trip permit and a 10-day trip permit. Each permit is effective from the date it is issued to midnight on the date of expiration.

(6) The issuance of trip permits under this rule is limited as follows:

(a) No more than one light vehicle or recreational vehicle trip permit may be issued under subsection (1)(a), (c) or (d) of this rule in any 12-month period for any one vehicle unless all registered owners are replaced with new owners;

(b) No more than two light vehicle trip permits may be issued under subsection (1)(b) of this rule in any 12-month period for any one vehicle unless all registered owners are replaced with new owners; and

(c) No more than two 10-day trip permits may be issued under section (2) of this rule for the same motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 803.600 & 822.035
Stats. Implemented: ORS 803.565, 803.600, 803.602 & 803.645
Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0012; MV 4-1989, f. & cert. ef. 1-3-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 28-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 28-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 9-2004, f. & cert. ef. 5-24-04

735-150-0080
Requirements for Issuing Trip Permits

Designated dealers must comply with the following requirements when issuing trip permits:

(1) Each copy of the trip permit must be completed with the following information:

(a) Name, address, driver license number and state of issue of the person issued the permit. A recreational vehicle trip permit must only be issued to the owner of the vehicle listed on the permit. This information may not be displayed on the (window) copy of the permit;

(b) If the applicant does not have a driver license or if the permit is issued to a business, nothing will be displayed on the purchaser's (window) copy of the permit to identify to whom the permit was issued. The name and address information is recorded on all other copies of the permit;

(c) A complete vehicle description, including year, make, body style and identification number;

(d) A written signature, including the full first and last name of the employee who issued the permit;

(e) Dealer certificate number;

(f) The effective date and expiration date of the permit; and

(g) The applicant's signature certifying:

(A) The insurance company name and policy number for the motor vehicle;

(B) The motor vehicle is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered as long as the permit is valid;

(C) For a recreational vehicle trip permit, that the applicant has not been issued recreational vehicle trip permits that when included with the permit being applied for, would grant more than 10 days vehicle operation for the preceding 12 months.

(2) Except as specified in section (3) of this rule, DMV's copy of the trip permit must be mailed or delivered to DMV within seven (7) days of the date the permit was issued.

(3) Alteration of the effective date, ownership information or vehicle description will automatically void a trip permit. When a trip permit is voided for any reason, the purchaser's (window) copy and DMV's copy of the permit and a written explanation about why the permit was voided must be mailed or delivered to DMV on the date the permit is voided. A refund of the prepaid permit fee will be made if DMV is satisfied that the permit was properly voided and not used for operation of the vehicle. If either copy of the permit is unavailable for submitting to DMV, the explanation must state why the copy is unavailable.

(4) The remaining (issuer's) copy of the trip permit must be retained by the dealer.

(5) Trip permits (or books of permits) may not be loaned to another dealer or individual or issued for vehicles sold by another dealer or individual.

(6) Unused trip permits may be returned to DMV for a refund of fees paid.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.600
Stats. Implemented: ORS 803.600 - 803.650
Hist.: MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-071-0215; MV 2-1989, f. & cert. ef. 1-3-89; MV 13-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 28-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 8-2002, f. & cert. ef. 4-12-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 7-2005, f. & cert. ef. 2-16-05

735-150-0105
Late Renewal of Dealer Certificate

(1) An application to renew a dealer certificate will not be considered late if the dealer submits an application for renewal within 15 days of the date that the previous certificate expired, and the application is submitted with all applicable fees and a surety bond in effect during that 15-day period.

(2) An application to renew a dealer certificate is late, and subject to the late payment charge under ORS 822.700(6), if the dealer submits:

(a) An application not later than 45 days after the previous certificate expired and the application is submitted with all applicable fees; and

(b) A surety bond in effect during that 45-day period.

(3) A dealer who continues business operations 45 days after their certificate has expired is in violation of ORS 822.005 and is subject to civil penalties under OAR 735-150-0170.

(4) Except for the late payment fee under ORS 822.700, DMV may waive or reduce a penalty described under this rule if the dealer provides DMV with written documentation that shows mitigating circumstances prevented the dealer from renewing their certificate on time. Mitigating circumstances DMV may consider include:

(a) The dealer took action to renew the certificate on a date reasonably calculated to complete the process in a timely manner; and

(b) The delay in renewal was due to circumstances beyond the dealer's ability to control.

Stat. Auth.: ORS 183.430, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.005 - 822.080 & 2013 OL Ch. 372
Stats. Implemented: ORS 822.040 & 2013 OL Ch. 372
Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 24-2013, f. 12-20-13, cert. ef. 1-1-14

735-150-0110
Dealer Offenses Subject to Civil Penalty or Sanction

In addition to any other penalties provided by law, a dealer will be subject to the civil penalties or sanctions in OAR 735-150-0120 to 0140 if the dealer:

(1) Allows or assists a person who is not an employee of the dealer to imply or represent an affiliation with the vehicle dealership in order to engage in any activity pursuant to ORS 822.005.

(2) Fails to submit all taxes or fees due this state or another jurisdiction in connection with the sale or transfer of a vehicle.

(3) Signs a name or allows any other person to sign a name of the owner, security interest holder, or lessor on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title without first obtaining a properly signed Power of Attorney. This section does not apply to a dealer who as an owner, security interest holder or lessor signs their own name on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title.

(4) Purchases, sells, disposes of or has in the dealer's possession, any vehicle that the dealer knows or with reasonable diligence should have known has been stolen or appropriated without the consent of the owner.

(5) Fails to comply with state or federal laws, rules or regulations pertaining to the construction or safety of motor homes, trailers or campers.

(6) Buys, sells, receives, disposes of, conceals or has in the dealer's possession any vehicle or component from which an identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle.

(7) Violates any provision of state or federal law, rule or regulation concerning odometer tampering, repair, readings or notices.

(8) Prints or produces or causes to be printed or produced any certificate of title or certificate of registration without authority, or holds or uses any such certificate or assignment knowing that it has been printed or purchased without authority.

(9) Commits any offense specified in ORS 822.045.

(10) Acts as a vehicle dealer anytime between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance.

(11) Issues a temporary registration permit to a person not domiciled in Oregon or who is otherwise not subject to or eligible for Oregon registration.

(12) Fails to notify DMV on a form or in a format approved by DMV within seven (7) calendar days of receipt of a vehicle in inventory, that a vehicle has been transferred to the dealer.

(13) Fails to immediately remove registration plates from vehicles registered in other jurisdictions that are in the dealer's inventory. The dealer may retain the plates until the vehicle is sold.

(14) Fails to destroy registration plates removed from vehicles registered in other jurisdictions at the time of sale if the vehicle is to be titled in Oregon or in a jurisdiction other than that in which the vehicle was previously registered. If the vehicle will be re-registered in the former jurisdiction, the plates may be placed back on the vehicle following the sale.

(15) Completes or allows an employee to complete a DMV Vehicle Identification Number (VIN) Inspection form without physically inspecting the vehicle for its vehicle identification number.

(16) Sells a vehicle of a type not authorized by the dealer's certificate.

(17) Fails to comply with any provision of ORS 822.060 through 822.065 concerning consignment sales.

(18) Fails to comply with any provision of ORS 822.040(4) or OAR 735-150-0033 concerning the display of a vehicle at a location other than the dealer's place of business for the purpose of advertising.

(19) Provides brokerage services and fails:

(a) To provide the written disclosure described in ORS 822.047(2);

(b) To provide the written statement described in ORS 822.047(3); or

(c) To comply with the requirements for broker fees described in ORS 822.047(4).

(20) Knowingly makes a false statement of material fact in:

(a) An application for a dealer certificate, a dealer certificate renewal or attachments thereof;

(b) An application to Correct Dealer/Rebuilder Vehicle Dealer Certificate (DMV Form 735-371);

(c) Any investigation by DMV or law enforcement; or

(d) Any DMV document.

(21) Commits a felony by violating ORS 822.605.

(22) Fails to maintain records described in OAR 735-150-0050(5) or fails to make those records available to DMV, law enforcement personnel or investigators of the Oregon Department of Justice upon their request.

(23) Fails to comply with the requirements of the Oregon Vehicle Code with reference to notices or reports of the transfer of vehicles or campers.

(24) Allows or permits the unlawful use of any certificate or registration plate.

(25) Falsely certifies under ORS 822.033 that the dealer is exempt from filing a certificate of insurance as required by ORS 822.020 or 822.040.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.035 & 2015 Or. Laws, Ch. 111
Stats. Implemented: ORS 822.005 - 822.080 & 2015 Or. Laws, Ch. 11
Hist.: MV 3-1980, f. 2-15-80, ef. 4-1-80; Suspended by MV 5-1980(Temp), f. & ef. 4-2-80; MV 4-1981, f. 4-1-81, ef. 4-10-81; MV 7-1982, f. & ef. 3-3-82; MV 7-1987, f. & ef. 7-13-87; MV 1-1988, f. & cert. ef. 1-5-88; Administrative Renumbering 3-1988, Renumbered from 735-071-0003; MV 39-1989, f. & cert. ef. 10-3-89; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 31-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 13-2015, f. 12-17-15, cert. ef. 1-1-16; DMV 14-2015, f. 12-17-15, cert. ef. 1-1-16

735-150-0120
Sanctions

(1) DMV may impose sanctions when it determines that a dealer has violated any provision of the Oregon Vehicle Code or rules adopted by DMV relating to:

(a) The operation of a vehicle dealership;

(b) Providing brokerage services; or

(c) Vehicle title and registration.

(2) Sanctions imposed may be against any or all of the following:

(a) A vehicle dealer's certificate;

(b) A dealer's status as DMV's agent; or

(c) An owner, partner, corporate officer or other principal of the dealership.

(3) Factors DMV may consider in determining the sanctions to impose include:

(a) The severity of a violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional;

(d) The history of all sanctions, civil penalties and oral or written warnings issued or imposed by DMV against the dealer or principals of the dealership.

(4) If DMV determines that a sanction is warranted, the type of sanction imposed may include one or more of the following:

(a) Probation under conditions set by DMV pertaining to the dealer's authority to act as an agent of DMV for up to one (1) year;

(b) Suspension of the dealer's authority to act as an agent of DMV for up to one (1) year;

(c) Permanent revocation of the dealer's authority to act as an agent of DMV;

(d) Probation under conditions set by DMV, for up to three (3) years;

(e) Probation of the dealer's authority to use Electronic Vehicle Registration (EVR) under conditions set by DMV, for up to one year.

(f) Suspension of the dealer's authority to use Electronic Vehicle Registration (EVR) and right to apply as an EVR dealer for up to three years.

(g) Permanent revocation of the dealer's authority to use Electronic Vehicle Registration (EVR).

(h) Suspension of the dealer's vehicle dealer certificate and the right to apply for a certificate for up to three (3) years including the right to renew the certificate until the period of suspension has been served;

(i) Permanent revocation of the dealer's vehicle dealer certificate;

(j) Cancellation of the dealer's vehicle dealer certificate;

(k) Suspension of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name for up to three (3) years;

(L) Permanent revocation of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name;

(m) Immediate suspension as provided in ORS 183.430(2).

(5) A dealer or principal whose vehicle dealer certificate or privileges have been placed on probation, suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) Except as provided for in sections (7) and (8) of this rule, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 20 days of the date of the notice of penalty. A hearing request received in a timely manner will result in a withdrawal of the penalty, pending the outcome of the hearing.

(7) In the instance of an immediate suspension as provided by, ORS 183.430(2) a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of notice of suspension. A hearing request received in a timely manner will not result in a withdrawal of the suspension, pending the outcome of the hearing.

(8) In the instance of cancellation as provided by ORS 822.050(2) or (3) for failure to satisfy the bond or insurance requirements established by 822.030 and 822.033, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of the notice of cancellation. A hearing request received in a timely manner will not result in a withdrawal of cancellation, pending the outcome of the hearing.

(9) When a timely request for a hearing is not received, the dealer will have defaulted, waived the right to a hearing and DMV's file will then constitute the record of the case.

Stat. Auth.: ORS 183.430, 184.616, 184.619, 802.010, 802.030, 802.370, 803.600, 803.625, 821.060, 821.080 & 822.005 - 822.080

Stats. Implemented: ORS 822.050

Hist.: MV 2-1983, f. 3-10-83, ef. 5-1-83; MV 4-1983, f. 10-5-83, ef. 10-15-83; MV 1-1984, f. & ef. 1-10-84; MV 7-1987, f. & ef. 7-13-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0013; MV 8-1991, f. & cert. ef. 7-19-91; MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 1-2015, f. & cert. ef. 4-20-15

735-150-0130
Civil Penalty Consideration; Certified Vehicle Dealers

(1) A dealer, who violates any provision of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers, the operation of a vehicle dealership, providing brokerage services or vehicle title and registration, may incur, in addition to any other penalty or sanction provided by law, a civil penalty in an amount of not more than $1,000 for each violation.

(2) DMV will assess a penalty amount determined by DMV to be appropriate for the particular violation. In determining an appropriate penalty amount, DMV may use the schedule set forth in OAR 735-150-0140 as a guideline and may consider the following:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional;

(d) The prior history of all civil penalties and sanctions imposed by DMV against the dealer or principals of the dealership;

(e) The number of violations compared to the volume of transactions at the dealership; or

(f) Other circumstances determined by DMV to be applicable to the particular violation.

(3) Upon review of the criteria listed in section (2) of this rule, and prior to the issuance of a final order, DMV may reassess a civil penalty amount and agree to a civil penalty amount other than that assessed in the Notice of Imposition of Civil Penalty. After review of the criteria listed in section (2) of this rule DMV may:

(a) Cancel, refuse to renew, or refuse to issue a certificate to any person who fails to pay a civil penalty assessed by DMV; or

(b) Waive the imposition of a civil penalty, or modify the amount, and request that a dealer attend specialized training, as determined by DMV.

Stat. Auth.: ORS 184.616,184.619, 802.010 & 822.035

Stats. Implemented: ORS 183.430, 822.009, 822.045 & 822.050

Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06

735-150-0140
Schedule of Civil Penalties for Certified Dealers

(1) Failure to comply with any provision of OAR 735-150-0030(1) through (3), concerning dealer location regulations:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(2) Failure to comply with the provisions of OAR 735-150-0030(4) concerning dealer location regulations:

(a) For the first violation: $500;

(b) For the second and subsequent violation(s): $1,000.

(3) Failure to comply with OAR 735-150-0040(5), (6) or (7), concerning delivery of the registration plates, stickers or temporary registration to the purchaser of a vehicle:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(4) Failure to comply with any provision of OAR 735-150-0050, concerning submission of DMV documents and fees on behalf of a purchaser:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(5) Failure to comply with any provision of OAR 735-150-0060, concerning issuance of temporary registration permits:

(a) For the first violation: warning;

(b) For the second violation: $50;

(c) For the third violation: $100;

(d) For the fourth and subsequent violation(s): $250.

(6) Failure to comply with any provision of OAR 735-150-0070, concerning trip permits issued by dealers:

(a) For the first violation: warning;

(b) For the second violation: $50;

(c) For the third violation: $100;

(d) For the fourth and subsequent violation(s): $250.

(7) Failure to comply with any provision of OAR 735-150-0080, concerning requirements for issuing light vehicle or recreational vehicle trip permits:

(a) For the first violation: warning;
(b) For the second violation: $50;
(c) For the third violation: $100;
(d) For the fourth and subsequent violation(s): $250.

(8) Failure to comply with OAR 735-150-0110(1), prohibiting a dealer from allowing a person not employed by the dealership to engage in dealer activity:
(a) For the first violation: $250;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.

(9) Failure to comply with OAR 735-150-0110(2), concerning failing to submit all taxes and fees:
(a) For the first violation: $250;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.

(10) Failure to comply with OAR 735-150-0110(3), concerning a dealer who signs the name or allows any other person to sign the name of an owner, security interest holder or lessor on title or transfer documents without a Power of Attorney:
(a) For the first violation: $500;
(b) For the second and subsequent violation(s): $1,000.

(11) Failure to comply with OAR 735-150-0110(4), concerning dealing in stolen vehicles: $1,000 for the first and subsequent violation(s).

(12) Failure to comply with OAR 735-150-0110(6), concerning altered vehicle identification numbers: $1,000 for the first and subsequent violation(s).

(13) Failure to comply with OAR 735-150-0110(7), concerning odometers, except violations of ORS 815.410, 815.420 and 815.430:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(14) Violation of ORS 815.410, 815.420 and 815.430, concerning odometer tampering and notices: $1,000 for the first and subsequent violation(s).

(15) Failure to comply with OAR 735-150-0110(8), concerning fraudulent title or registration documents: $1,000 for the first and subsequent violation(s).

(16) Except as otherwise provided in OAR 735-150-0140, the following apply for any violation of ORS 822.045, including the failure to comply with OAR 735-150-0110(10), concerning acting as a vehicle dealer any time between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(17) Violation of ORS 822.045(1)(d), (e), (j) or (k) or OAR 735-150-0039: $1,000 for the first and subsequent violation(s).

(18) Failure to comply with OAR 735-150-0110(11), concerning issuance of temporary registration permits to persons not eligible:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(19) Failure to comply with OAR 735-150-0110(12), concerning failure to notify DMV of a vehicle transferred to the dealer:
(a) For the first violation: warning;
(b) For the second violation: $50;
(c) For the third violation: $100;
(d) For the fourth violation: $250;
(e) For the fifth and subsequent violation(s): $500.

(20) Failure to comply with OAR 735-150-0110(13), concerning failure to remove foreign registration plates:
(a) For the first violation: warning;
(b) For the second violation: $50;
(c) For the third violation: $100;
(d) For the fourth and subsequent violation(s): $250.

(21) Failure to comply with OAR 735-150-0110(14), concerning failure to destroy foreign registration plates:
(a) For the first violation: warning;
(b) For the second violation: $50;
(c) For the third violation: $100;
(d) For the fourth and subsequent violation(s): $250.

(22) Failure to comply with OAR 735-150-0110(15), concerning the physical inspection of vehicle identification numbers:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(23) Failure to comply with OAR 735-150-0110(16), concerning the sale of vehicles of a type not authorized by the dealer certificate:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(24) Failure to comply with ORS 822.060(1)(a), (b), (c), (e), (h) or (i), concerning consignment sales:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(25) Violations of ORS 822.060(1)(d), (f) or (g) or 822.065, concerning consignment sales:
(a) For the first violation: $500;
(b) For the second and subsequent violation(s): $1,000.

(26) Failure to comply with OAR 735-150-0110(20) concerning making a false statement of material fact:
(a) For the first violation: $500;
(b) For the second and subsequent violation(s): $1,000.

(27) Any violation of the Oregon Vehicle Code or OAR chapter 735 not otherwise classified in this rule:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(28) Violations of OAR 735-150-0035 concerning dealer records:
(a) For the first violation: warning;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.

(29) Violations of OAR 735-150-0045 and, ORS 822.082 through 822.084 concerning special rules and statutory provisions for RV dealers:
(a) For a certified dealer or person acting as a show organizer that conducts a show without a license:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(b) For failing to display a show license at a show:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(c) For a certified dealer or person acting as a show organizer that fails to include a dealer in a show license application:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(d) For selling a new RV without maintaining a service facility:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(e) For selling a new RV while maintaining a service facility that is not primarily engaged in the service and repair of RVs:
(A) For the first violation: $250;

(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(f) For failing to prominently display the location of the dealer's service facility at a sales facility or RV show:
(A) For the first violation: Warning;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(g) For subcontracting a service facility rather than directing the service operation:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(h) For a certified dealer or person acting as a show organizer that conducts a show beyond the scope of the show license. For example, for additional days or hours:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(i) For submitting an application that contains a false statement or omission of material fact:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(j) Except as otherwise provided in OAR 735-150-0140, the following apply for any violation of OAR 735-150-0045 and ORS 822.082 to 822.084:
(A) For the first violation: $250;
(B) For the second violation: $500;
(C) For the third and subsequent violation(s): $1,000.
(30) Violation of OAR 735-150-0055 concerning vehicle dealer document processing fees:
(a) For the first violation: $250;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.
(31) Violation of OAR 735-150-0037 concerning records; satisfying prior interest; providing clear title:
(a) For the first violation: Warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.
(32) Violation of OAR 735-150-0110(24), concerning the unlawful use of any certificate or registration plate:
(a) For the first violation: $100;
(b) For the second violation: $500;
(c) For the third violation: $750;
(d) For the fourth and subsequent violation(s): $1,000.
(33) Failure to comply with any provision of ORS 822.047 or OAR 735-150-0110(19), concerning the requirements for providing brokerage services:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.
(34) Violations of OAR 735-150-0033 and, ORS 822.040(4) concerning the display of a vehicle at a location other than the dealers place of business for the purpose of advertising:
(a) For the first violation: Warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.
(35) Violation of OAR 735-150-0110(21) and ORS 822.605 concerning false swearing relating to regulation of a vehicle dealer business: $1,000 for the first and subsequent violation(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.009 & 822.035
Stats. Implemented: ORS 822.009, 822.035 & 822.045
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 2-1996, f. & cert. ef. 4-18-96; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98; DMV 12-1998(Temp), f. & cert. ef. 9-14-98 thru 3-12-99; DMV 2-1999, f. & cert. ef. 2-19-99; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 10-2001, f. & cert. ef. 6-14-01; DMV 22-2001(Temp), f. & cert. ef. 10-17-01 thru 4-14-02; DMV 26-2001 f. 12-14-01, cert. ef. 1-1-02; DMV 18-2002, f. & cert. ef. 9-20-02; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 24-2005, f. 11-18-05, cert. ef. 1-1-06; DMV 3-2014, f. & cert. ef. 5-19-14; DMV 9-2015, f. 11-17-15, cert. ef. 1-1-16

735-150-0160
Civil Penalty Considerations; Acting as a Dealer Without a Certificate

Any person not issued a vehicle dealer certificate under ORS 822.020, who violates ORS 822.005(1) or any DMV rule relating to the sale of vehicles, will incur, in addition to any other penalty provided by law, a civil penalty not to exceed $5,000 for each vehicle:

(1) DMV will assess penalties in accordance with the schedule set forth in OAR 735-150-0170.

(2) The Business Regulation Section of DMV may evaluate the appropriateness of the amount of a civil penalty assessed in individual cases and may agree to payment of an amount other than originally assessed. In making such an evaluation, the Business Regulation Section may consider:

(a) The severity of the violation or its impact on the public;
(b) The number of similar or related violations;
(c) Whether the violations were willful or intentional; and
(d) Any other consideration DMV deems appropriate.

(3) DMV will refuse to issue a certificate under ORS 822.020 to any person who fails to pay a civil penalty.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 822.005 & 822.009
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 30-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 2-2002, f. & cert. ef. 2-15-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0170
Schedule of Violation Penalties, Unlicensed Dealer

(1) In addition to any other penalty provided by law, the following civil penalty schedule applies to persons acting as a vehicle dealer without a current dealer certificate, including a dealer who sells a vehicle while the dealer's certificate is expired, suspended, cancelled, or revoked.

(2) This schedule does not apply to a person or dealer exempt from dealer certification requirements pursuant to ORS 822.015.

(3) Civil penalties under this schedule are assessed as follows:

(a) For the first offense: $2,500 per vehicle;

(b) For the second and subsequent offenses: $5,000 per vehicle.

(4) DMV may reduce a civil penalty assessed under subsection (3)(a) of this rule if:

(a) The person or dealer files with DMV a completed dealer application that meets Oregon requirements for licensure within 30 days of the date of notice of imposition of civil penalty for acting as an unlicensed dealer; or

(b) A hearing is requested and held in accordance with ORS Chapter 183, and within 30 days of issuance of a final order upholding the penalty, the person files with DMV a completed dealer application that meets Oregon requirements for licensure.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 822.009 & 822.009
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 30-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 2-2002, f. & cert. ef. 2-15-02

735-150-0190
Contested Case Hearings and Disposition

(1) The Business Regulation Section of DMV may, in accordance with ORS 183.417(3), make an informal disposition of any contested case prior to the conclusion of any hearing, resulting from a sanction or civil penalty assessed under OAR chapter 735, division 150. This disposition may include a stipulation, agreed settlement, consent order or default order.

(2) An informal disposition by stipulation, agreed settlement or consent order must be in writing, signed by any party to the contested case and incorporated into the final order.

(3) The administrative law judge presiding at a contested case hearing may not adjust the amount of a civil penalty imposed by DMV under OAR 735-150-0130 or 735-150-0160.

Stat. Auth.: ORS 183.430, 184.616, 184.619, 802.010 & 803.625
Stats. Implemented: ORS 183.417 & 822.005 - 822.080
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91; MV 9-1992, f. & cert. ef. 8-17-92; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 10-1998, f. & cert. ef. 8-20-98; DMV 8-2000, f. & cert. ef. 8-10-00; DMV 30-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0205
Liquidation of Dealer Inventory Upon Closure of Dealership

(1) Upon the closure of any vehicle dealership, a dealer, or former dealer:

(a) Must immediately provide DMV Business Regulation Section a complete inventory of all vehicles in possession of the dealer, or former dealer, at the time of closure. The inventory must be in writing and must include, a description of each vehicle including; vehicle identification number, vehicle make, model and year. The inventory list must be submitted with a written plan to DMV to liquidate the vehicles and a proposed time frame in which to do so; and

(b) Is strictly prohibited from adding to, or making a sale from the inventory in anyway other than as described in subsection (2) of this rule.

(2) Upon the written approval of the DMV Business Regulation Section, all vehicles listed as inventory under section (1) of this rule must be liquidated by one of the following means:

(a) The wholesale of the vehicles to another certified dealer, or by consignment to a certified auto auction authorized to wholesale vehicles to other dealers; or

(b) Titling a limited number of vehicles in the name of the former dealer, subject to the requirements of ORS 822.015; or

(c) Any combination of (a) or (b).

(3) A dealer or former dealer described under this rule must maintain a record of all vehicles that are liquidated including:

(a) The date and specific method(s), as described under section (2) of this rule, used to liquidate each vehicle;

(b) If a vehicle is liquidated to another dealer, or certified auto auction, the name, certificate number and address of each dealer or auction to whom the vehicle was liquidated; and

(c) A description of each vehicle including, the vehicle identification number, make, model and year.

(d) This section also applies to inventoried vehicles that are not liquidated because they are subject to flooring agreements and have, or will be returned or surrendered to the financial institution or manufacturer holding an inventory financing security interest.

Stat. Auth: ORS 184.616, 184.619, 802.010 & 822.035
Stats. Implemented: ORS 822.035
Hist.: DMV 20-2004, f. & cert. ef. 8-20-04

735-150-0250
Lien Claimant Records; Notification of Sale

(1) Purpose. This rule establishes the requirements, form and retention period for lien claimant records pursuant to ORS 822.093. The rule also specifies how a lien claimant will notify DMV of the sale of a subject vehicle.

(2) Definitions. For purposes of ORS 822.093, OAR 735-150-0260 and this rule:

(a) "Owner" means any individual(s) or business shown in the records of DMV as having an ownership interest in a subject vehicle.

(b) "Subject vehicle" means a vehicle sold by a lien claimant to foreclose a possessory lien, or acquired by a lien claimant through a possessory lien foreclosure that is sold or offered for sale by the lien claimant.

(c) "Violation" means failure by a lien claimant to keep records in accordance with this rule.

(3) Records. A lien claimant who sells or offers for sale a subject vehicle must maintain records sufficient to establish that subject vehicles were acquired by the lien claimant as the result of a possessory lien. The following records must be maintained:

(a) A signed and dated copy of an original tow notification, repair order, an impound form from law enforcement or other similar form or document showing how the lien claimant acquired possession of the subject vehicle, or a written record that identifies the person or entity that authorized the lien claimant to take possession of the subject vehicle (e.g. specific law enforcement agency, business, etc.) and the time and date of contact.

(b) A signed and dated copy of an original claim or notice of possessory lien, a notice of foreclosure sale form applicable to the possessory lien or similar form or document showing the owner of the vehicle was notified of the possessory lien;

(c) A signed and dated copy of the DMV certificate of possessory lien foreclosure form applicable to the possessory lien as specified in OAR 735-020-0012 for each subject vehicle; and

(d) A bill of sale, if applicable.

(4) Retention. Records required under this rule must be retained for a period of five (5) years by the lien claimant:

(a) For an individual, at a location that complies with section (5) of this rule;

(b) For a business, including the holder of a current valid towing business certificate issued under ORS 822.205, for a period of five years; two years on the premises of the main business location or at a supplemental location of the lien claimant if the vehicle is sold to foreclose a possessory lien, and an additional three-year period at any location within the State of Oregon that is convenient for the lien claimant; or

(c) Any other location that is approved in writing by DMV.

(5) Maintenance; Form. Lien claimant records must be maintained in a manner allowing for timely and efficient retrieval of any record requested by DMV for inspection. Records maintained under this rule must be the original records or an exact copy of the original records and may be maintained in hard copy, on film, or by electronic means. DMV may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.

(6) Notice to DMV. A lien claimant must notify DMV within 10 days of the sale or transfer of interest of a subject vehicle by submitting to DMV:

(a) A completed and signed Notice of Sale or Transfer of Vehicle (DMV Form 6890), if the subject vehicle is covered by an Oregon title; or

(b) A completed and signed Notice of Lien Foreclosure; Sale or Transfer of Vehicle (DMV Form 6890A), if the subject vehicle is not covered by an Oregon title.

Stat. Auth.: ORS 184.616, 184.619, 803.097, 822.035, 822.042 & 822.093
Stats. Implemented: ORS 87.152, 87.162, 87.166, 87.172, 87.176 - 206, 90.425, 90.675, 98.805, 98.810, 98.812, 98.818, 98.830, 98.835, 803.097, 809.720, 811.555, 811.570, 819.110, 819.120, 819.160, 819.230, 822.035, 822.042, 822.045 & 822.093
Hist.: DMV 26-2003(Temp), f. & cert. ef. 12-15-03 thru 6-11-04; DMV 10-2004, f. 5-24-04, cert. ef. 6-1-04

735-150-0260
Civil Penalty Consideration, Lien Claimant Records

(1) In addition to any other penalty or sanction provided by law, a lien claimant who violates any provision of ORS 822.093 or OAR 735-150-0250 relating to lien claimant records may incur a civil penalty in an amount not to exceed $1,000 for each violation. DMV will assess a penalty amount determined by DMV to be appropriate for the particular violation. In determining an appropriate penalty amount DMV may use the schedule set forth in section (2) of this rule as a guideline and may consider the following criteria:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether the violations were willful or intentional;

(d) The prior history of penalties imposed by DMV against the lien claimant;

(e) The number of violations compared to the volume of transactions by the lien claimant; or

(f) Other circumstances determined by DMV to be applicable to the particular violation.

(2) Pursuant to ORS 822.093, DMV may impose a civil penalty for failure to comply with any provision of OAR 735-150-0250, concerning lien claimant records:

(a) For first offense: warning;

(b) For second offense: $250;

(c) For third offense: $500;

(d) For fourth and subsequent offense: $1,000.

(3) Prior to the issuance of a final order, DMV may reassess the civil penalty amount and may agree to payment of an amount less than that assessed in the Notice of Imposition of Civil Penalty, after review of:

(a) The criteria listed in section (1) of this rule; and

(b) Any explanatory information provided to DMV.

Stat. Auth.: ORS 184.616, 184.619, 803.097, 822.035, 822.042 & 822.093

Stats. Implemented: ORS 87.152, 87.162, 87.166, 87.172, 87.176 - 206, 90.425, 90.675, 98.805, 98.810, 98.812, 98.818, 98.830, 98.835, 803.097, 809.720, 811.555, 811.570, 819.110, 819.120, 819.160, 819.230, 822.035, 822.042, 822.045 & 822.093

Hist.: DMV 26-2003(Temp), f. & cert. ef. 12-15-03 thru 6-11-04; DMV 10-2004, f. 5-24-04, cert. ef. 6-1-04

DIVISION 152

DISMANTLERS

735-152-0000
Definitions

As used in ORS chapters 822.100 to 822.150 and this division the following definitions apply:

(1) "Acquires," "acquired" or "acquisition" means physical possession of a motor vehicle together with possession of the vehicle's ownership record.

(2) "Cancellation" has the same meaning as "revocation" as defined in section (19) of this rule.

(3) "Certificate of sale" has the same meaning as defined in ORS 801.183.

(4) "Conspicuously display" as used in ORS 822.133 means letters, numbers or symbols, posted on both sides of the mobile motor vehicle crusher that are:

(a) Six inches or larger in a color that contrasts to the background;

(b) Clearly visible from at least 50 feet in daylight, and readable and easily understood by the public; and

(c) Permanently affixed.

(5) "Date of sale" means the date that a purchaser takes possession of a major component purchased from a dismantler.

(6) "Destroy" has the same meaning as defined in ORS 822.133.

(7) "Dismantler" has the same meaning as defined in ORS 801.236.

(8) "Dismantle" means one or more major component parts are removed from a motor vehicle acquired by a dismantler.

(9) "Dispose" or "disposed of" means a motor vehicle acquired by a dismantler that is transferred to another person or is dismantled or destroyed.

(10) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(11) "Employee" means a person over whom a dismantler exercises the type of control typically associated with an employer, including:

(a) Determining the frequency, method and amount of compensation;

(b) Determining whether the person's work is continuous or intermittent;

(c) Determining the hours or frequency of a person's work; or

(d) Retaining the ability to terminate the relationship.

(12) "Main business location," "primary business location," or "place of business" as used in ORS 822.100 to 822.150 and these rules, means the location identified and listed as the dismantler's main business location on the current business certificate application and does not include a supplemental location or temporary location as defined under sections (22) and (23) of this rule.

(13) "Major component part" has the same meaning as defined in ORS 822.137.

(14) "Mobile motor vehicle crusher" has the same meaning as defined in ORS 822.133.

(15) "Primary ownership document" or "ownership record," as used in ORS 822.135, has the same meaning as "primary ownership" record as defined in 801.402 and includes the primary ownership documents described in OAR 735-020-0010 or an abandoned vehicle certificate described in 735-024-0077.

(16) "Person" means an individual, partnership, corporation, association, or any other business organization if the context in which the term is used could also include these organizational forms.

(17) "Principal" means any owner, partner, corporate officer or other person who controls or manages the business organization or the employees or agents of the business organization.

(18) "Probation" means a period of time specified by DMV that a dismantler may continue to operate, but only under terms or conditions established by DMV.

(19) "Revocation" means to void and terminate a dismantler certificate or the principal's right to apply for a dismantler certificate.

(20) "Sanction" means an action taken by DMV against a dismantler's certificate, or the principal of a dismantler business, for non-compliance with Oregon law or DMV rule related to dismantlers or the operation of a dismantler business.

(21) "Suspension" means the temporary withdrawal of the authority to act as a dismantler.

(22) "Supplemental location," "supplemental place of business," or "additional place of business" as used in ORS 822.100 to 822.150 and these rules, means a location identified and listed on the dismantler's supplemental business location(s) business application and does not include a temporary location or the dismantler's primary business location approved by DMV to operate under the same business name as the primary business location.

(23) "Temporary location" as used in ORS 822.133 and these rules, means a location other than a dismantler's main business location or supplemental location, at which a dismantler may operate, for a period of 15 consecutive business days or less, a mobile motor vehicle crusher to render motor vehicles into crushed motor vehicles.

(24) "Vehicle Business" includes vehicle dealers as defined in OAR 735-150-0010(14), dismantlers, towing businesses, vehicle transporters and repair shops.

(25) "Violation" means any violation of Oregon law or a DMV rule applicable to a dismantler issued a certificate or any person engaged in dismantling activities.

(26) "Warning" means a documented warning or correction notice issued to a principal or employee of a dismantler business.

(27) "Wrecked vehicle" has the same meaning as defined in ORS 822.133.

(28) "Written report" means DMV Form 270, Vehicle Dismantler's Notice and the original ownership record for the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.135, 822.137 & Ch. 433, OL 2011

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150

Hist.: MV 7-1987, f. & ef. 7-13-87; MV 10-1991, f. & cert. ef. 8-20-91; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0005
Dismantler Application

(1) In addition to the requirements for an application for a dismantler certificate under ORS 822.110, or a renewal under ORS 822.125, an applicant for a dismantler certificate must submit the following to the DMV Business Regulation Section:

(a) A completed and signed Application for Dismantler Certificate (DMV Form 735-373) that includes:

(A) A certification that the dismantler's business complies with the building, enclosure or barrier requirements under ORS 822.135(1) and OAR 734-040-0030;

(B) A state-issued picture identification (a copy of driver license or identification card) for each principal;

(C) The applicant's National Motor Vehicle Title Information System identification number; and

(D) If the applicant is a corporation, firm or partnership, the Oregon business registry number assigned by the Secretary of State, Corporation Division.

(b) All applicable fees; and

(c) A completed and signed DMV statement of compliance for surety bond or letter of credit.

(2) In addition to the requirements of section (1) of this rule, the applicant must submit a completed and signed Application for Supplemental Dismantler Certificate (DMV Form 735-373A) for each additional business location other than the dismantler's primary business location.

(3) If a dismantler changes the business location or business name on the dismantler's certificate, the dismantler must submit a completed and signed Application to Correct Dismantler Certificate (DMV Form 735-373B) and obtain a corrected dismantler certificate before business can be conducted at the new location or under the new business name.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100 - 822.150 & Ch. 433, OL 2011
Stats. Implemented: ORS 822.100 – 822.150
Hist.: DMV 4-1996, f. & cert. ef. 7-26-96; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0010
Investigation of Dismantler Applications

(1) DMV may investigate applications for an original or renewal of a dismantler certificate to determine whether the information contained in the application is accurate and complete, and will do so whenever DMV has reason to believe the application is not accurate.

(2) DMV will investigate each application for an original or renewal of a dismantler certificate to determine if any of the principals of the applicant are or have been financially or operationally involved with any other vehicle business whose certificate or right to apply for a certificate is or has been on probation, suspended, canceled or revoked.

(3) DMV may investigate any principal of the applicant to determine whether the principal:

(a) Has been convicted of a violation of any provision of ORS Chapter 822 within the five years preceding the date of the application;

(b) Has been convicted in any jurisdiction outside of the state of Oregon of any violation of that jurisdiction's statutes relating to vehicle businesses, vehicle registration, title transfers or stolen vehicles within the five years preceding the date of the application; or

(c) Is currently subject to any type of administrative action relating to vehicle businesses, vehicle registration, title transfers or stolen vehicles in a jurisdiction outside of the state of Oregon.

Stat. Auth.: ORS 802.010, 822.115, 822.125, 822.130 & Ch. 654, OL 2005
Stats. Implemented: ORS 822.115 - 822.125, Ch. 654, OL 2005
Hist.: MV 10-1991, f. & cert. ef. 8-20-91; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0020
Refusal to Issue and Probationary Status of Dismantler Certificate

(1) DMV will not issue or renew an original dismantler certificate or supplemental certificate to any applicant when it determines:

(a) The application is incomplete or information contained in the application is false;

(b) A principal of the applicant is financially or operationally involved with any vehicle business whose certificate or right to apply for a certificate is currently suspended, canceled or revoked; or

(c) A principal of the applicant:

(A) Has been convicted of a violation of any provision of ORS Chapter 822 within the five years preceding the date of the application;

(B) Has been convicted in any jurisdiction outside of the state of Oregon of any violation of that jurisdiction's statutes relating to vehicle businesses, vehicle registration, title transfers or stolen vehicles within the five years preceding the date of the application; or

(C) Is currently affected by any type of administrative sanction or penalty that prohibits the principal from conducting a vehicle business and relates to vehicle businesses, vehicle registration, title transfers or stolen vehicles in a jurisdiction outside of the state of Oregon.

(2) DMV will not issue or renew an original dismantler certificate or supplemental certificate until it is satisfied the applicant meets all requirements for issuance of a certificate under ORS Chapter 822 and OAR 735, division 152.

(3) DMV may issue or renew an original dismantler certificate or supplemental certificate on a probationary basis if a principal of the applicant is financially or operationally involved with another vehicle business whose certificate or right to apply for a certificate is currently on probation.

(4) DMV will retain the fees paid with an application to cover processing costs when it refuses to issue a certificate.

(5) An applicant who has been refused issuance of a dismantler certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) The refused applicant's request for a hearing must be submitted in writing and received by DMV, within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing. In case of a refusal to renew, the dismantler may continue to operate under the old certificate in accordance with ORS 183.430(1), pending the outcome of the hearing, except when DMV finds that such continued operation would constitute a serious danger to the public health or safety and extends the hearing request period to 90 days in accordance with ORS 183.430(2).

(7) When a dismantler or principal of the dismantler business fails to file a timely request for hearing, the charges shall be considered to have been admitted, the dismantler or principal shall be deemed in default as to those charges, DMV's file shall constitute the record of the case, and the order of refusal shall become final.

Stat. Auth.: ORS 184.616, 184.619, 802.010 822.100 – 822.150
Stats. Implemented: ORS 822.100 – 822.150
Hist.: MV 10-1991, f. & cert. ef. 8-20-91; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0025
Dismantler Business Location Regulations

(1) Each dismantler business location must:

(a) Comply with the building, enclosure or barrier requirements under ORS 822.135(1) and OAR 734-040-0030;

(b) Provide a means for the public to contact the dismantler or an employee of the dismantler at all times during the dismantler's normal business hours;

(c) Display an exterior sign, permanently affixed to the land or a building, that identifies the dismantler business by the name printed on the dismantler certificate, with letters clearly visible to the major avenue of traffic; and

(d) Display, in a publicly accessible and conspicuous manner, the dismantler certificate.

(2) A dismantler must have a certificate or supplemental certificate on display for each location where the dismantler displays vehicles and component parts. A dismantler who uses a supplemental place of business must have a supplemental certificate from DMV before business can be conducted at the supplemental location.

(3) As required by ORS 822.133(2), if the dismantler takes possession of a wrecked vehicle without an ownership record or salvage title, the vehicle may remain on the business premises if it is:

(a) Confined to an area of the business location that is clearly off-limits to customers for purposes of buying or selling a vehicle or component part; or

(b) Tagged with a "not for sale" notice that is clearly and conspicuously posted on the vehicle in plain view of customers and legible at a distance of 20 feet or more.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.100 – 822.150
Stats. Implemented: ORS 822.100 – 822.150
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0031
Dismantler Records

(1) As required by ORS 822.135, 822.137 and this rule, motor vehicle dismantlers must maintain records on each motor vehicle or major component part acquired and taken into the inventory of the dismantler's business. Records must be retained at the dismantler's business location for a period of three years from the date of acquisition. Records must include the following:

(a) For a motor vehicle:

(A) If last titled in Oregon, the Oregon title number, or if the title is not available a copy of the vehicle ownership document;

(B) If last titled in another jurisdiction, a copy of the out-of-state title or ownership document;

(C) If available, the registration plate number and the name of the jurisdiction where the vehicle was last registered;

(D) The year, make and model;

(E) The vehicle identification number;

(F) The date the vehicle was acquired as defined under OAR 735-152-0000(1);

(G) The vehicle, stock or yard number assigned to the vehicle by the dismantler; and

(H) Any other information required by DMV.

(b) A description of a major component part that identifies the part, including:

(A) The physical characteristics of the part;

(B) The stock or yard number assigned to the part by the dismantler;

(C) The vehicle identification number of the motor vehicle from which the part came; and

(D) Any other information required by DMV.

(2) Dismantler records subject to this rule must be maintained in a manner that allows for timely retrieval of any record requested by DMV or a police officer for inspection. The dismantler may maintain original records or an exact copy of the original records in hard copy, on film, or electronically. If first approved by DMV, an exact copy of the dismantler's original records may be stored in some other manner. DMV or a police officer may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.

(3) DMV may inspect dismantler records including books, contracts, documents, letters and records of any type, including electronic and paper records, of any certified dismantler when DMV is investigating a potential violation of Oregon Vehicle Code or DMV rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100 – 822.150
Stats. Implemented: ORS 822.100 – 822.150
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0034
Report that Vehicle is Dismantled or Destroyed

(1) This rule designates the form of the written report required under ORS 822.133(2)(e).

(2) A dismantler must submit a completed and signed written report to DMV within 30 days of the date that a dismantler destroys or dismantles a motor vehicle acquired by the dismantler.

(3) The written report must include:

(a) A completed and signed Vehicle Dismantler's Notice (DMV Form 270); and

(b) The original ownership record for the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100 – 822.150
Stats. Implemented: ORS 822.100 – 822.150
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0037
Late Renewal of Dismantler Certificate

(1) An application to renew a dismantler certificate will not be considered late if the dismantler submits an application for renewal within 15 days of the date that the previous certificate expired, and the application is submitted with all applicable fees and a surety bond in effect during that 15-day period.

(2) An application to renew a dismantler certificate is late, and subject to the late payment charge under ORS 822.700(3), if the dismantler submits:

(a) An application for renewal no later than 45 days after the previous certificate expired, and the application is submitted with all applicable fees; and

(b) A surety bond in effect during that 45-day period.

(3) A dismantler who continues business operations 45 days after their certificate has expired is in violation of ORS 822.100 and is subject to civil penalties under OAR 735-152-0060.

(4) Except for the late payment fee under ORS 822.700, DMV may waive or reduce a penalty described under this rule if the dismantler provides DMV with written documentation that shows mitigating circumstances prevented the dismantler from renewing their certificate on time. Mitigating circumstances DMV may consider include:

(a) The dismantler took action to renew the certificate on a date reasonably calculated to complete the process in a timely manner; and

(b) The delay in renewal was due to circumstances beyond the dismantler's ability to control.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100–822.150 & 2013 OL Ch. 372
Stats. Implemented: ORS 822.100–822.150 & 2013 OL Ch. 372
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 24-2013, f. 12-20-13, cert. ef. 1-1-14

735-152-0040
Dismantler Violations Subject to Sanction

A dismantler is subject to the sanctions described under OAR 735-152-0050 if the dismantler:

(1) Commits the offense of improperly conducting a motor vehicle dismantling business for any of the reasons set forth in Chapter 433, Or Laws 2011, ORS 822.120, 822.125, 822.133, 822.135, 822.137, 822.145 or relevant rules adopted by DMV.

(2) Allows a person who is not an employee of the dismantler to imply or represent an affiliation with the dismantler business to engage in any activity that would subject that person to dismantler certification and regulatory requirements.

(3) Fails to allow DMV to conduct an inspection.

(4) Is issued notice that the dismantler's bond under ORS 822.120 is cancelled.

(5) Fails to pay any civil penalty imposed under ORS 822.133, 822.137 or 822.145.

(6) The person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.133, 822.135, 822.137 or 822.150.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137 822.145 & Ch. 433, OL 2011
Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150

Hist.: MV 10-1991, f. & cert. ef. 8-20-91; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0045
Civil Penalty Consideration; Certified Dismantlers

(1) A dismantler who violates the provisions of ORS 822.133 and 822.137 and any rule adopted by DMV relating to these provisions may incur, in addition to any other penalty or sanction provided by law, a civil penalty in an amount of not more than $1,000 for each violation.

(2) DMV will assess a penalty amount determined by DMV to be appropriate for the particular violation. In determining an appropriate penalty amount, DMV may use the schedule set forth in OAR 735-152-0060 as a guideline and may consider the following:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional;

(d) The prior history of all civil penalties and sanctions imposed by DMV against the dismantler or principals of the dismantler business;

(e) The number of violations compared to the volume of transactions at the dismantler business; or

(f) Other circumstances determined by DMV to be applicable to the particular violation.

(3) Upon review of the criteria listed in section (2) of this rule, and prior to the issuance of a final order, DMV may reassess a civil penalty amount and agree to a civil penalty amount other than that assessed in the Notice of Imposition of Civil Penalty. After review of the criteria listed in section (2) of this rule DMV may:

(a) Cancel, refuse to renew, or refuse to issue a certificate to any person who fails to pay a civil penalty assessed by DMV; or

(b) Waive the imposition of a civil penalty, or modify the amount, and request that a dismantler attend specialized training, as determined by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100 – 822.150
Stats. Implemented: ORS 183.430, 822.100 – 822.150
Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0050
Sanctions

(1) In addition to any other penalties provided by law, DMV may impose sanctions against any person issued a valid dismantler certificate, any principal of a dismantler business, or both, if DMV determines either has violated any Oregon law or DMV rule relating to the operation of a dismantler business.

(2) Sanctions may be imposed against one or more of the following:

(a) A dismantler's certificate issued under ORS 822.110;

(b) An identification card or supplemental dismantler certificate issued under ORS 822.125; or

(c) A principal of the dismantler business.

(3) Factors DMV may consider when imposing a sanction against a dismantler include:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional; and

(d) Any previous sanction, civil penalty or warning issued or imposed against the dismantler or principal.

(4) DMV determines the appropriate sanction to impose when it determines a violation has occurred. These may include one or more of the following:

(a) Verbal or written warning, including a correction notice.

(b) Probation under conditions set by DMV, for up to three years.

(c) Suspension of the dismantler certificate and the right to apply for a dismantler certificate, for up to three years.

(d) Revocation of the dismantler certificate and the right to apply for a dismantler certificate. A person subject to permanent revocation of a dismantler certificate is ineligible to apply for a new dismantler certificate, for up to five years.

(e) Suspension of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, or in a different business name, for up to three years.

(f) Revocation of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, including a vehicle-related business with a different business name, for up to five years.

(g) Cancellation of the dismantler certificate if it is determined the applicant or a principal of the business is ineligible for a dismantler certificate.

(h) Immediate suspension or cancellation as provided in ORS 822.145(2) upon receipt of legal notice the dismantler's bond under 822.120 is canceled.

(i) Immediate suspension or cancellation for failure to pay any penalty imposed under ORS 822.135 or 822.137.

(5) A dismantler or principal whose business certificate or privileges are suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS Chapter 183.

(6) Except as provided in section (7) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 20 days of the date of the notice of revocation, suspension or cancellation. A hearing request received in a timely manner shall result in a withdrawal of the revocation suspension or cancellation pending the outcome of the hearing.

(7) In the instance of an immediate suspension or cancellation as provided by subsection (4)(g) or (h) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 90 days of the date the notice is issued. A hearing request received in a timely manner shall not result in a withdrawal of the suspension or cancellation pending the outcome of the hearing.

(8) In order for a request for hearing to be timely, the request must be received by DMV within the time periods established in sections (6) and (7) of this rule. If the request for hearing is not timely received, the person waives their right to a hearing, except as provided in OAR 137-003-0528. The time periods will be computed as set forth in 137-003-0520(8).

(9) When DMV does not receive a timely request for a hearing, the dismantler or principal defaults, waives the right to a hearing and DMV's file constitutes the record of the case.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.145 & Ch. 433, OL 2011
Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150
Hist.: MV 10-1991, f. & cert. ef. 8-20-91; DMV 23-2004, f. & cert. ef. 11-17-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0060
Civil Penalty Matrix for Certified Dismantlers

DMV may impose a civil penalty against a motor vehicle dismantler for any violation described under Chapter 433, Or Laws 2011, ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137 or DMV rules. DMV adopts this civil penalty matrix to determine civil penalty amounts that may be imposed against dismantlers for specific violations. DMV may modify a civil penalty assessed against a dismantler under the provisions of OAR 735-152-0045. Under this rule, an offense is a "second or subsequent offense" if a dismantler committed the same offense within three years of the offense under consideration.

(1) Fraudulently obtaining a dismantler certificate by submission of an application under OAR 735-152-0005 containing a false statement or omission of a material fact: $1,000, for the first and subsequent violation(s).

(2) Failure to comply with any provision of ORS 803.140 concerning an application for salvage title:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(3) Failure to comply with any provision of ORS 819.012 concerning procedures for a totaled vehicle:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(4) Failure to comply with any provision of ORS 819.016 concerning when a salvage title is required:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(5) Failure to comply with any provision of ORS 819.040 concerning illegal salvage procedures:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(6) Failure to comply with any provision of ORS 822.120 concerning a bond or letter of credit:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(7) Failure to comply with any provision of ORS 822.125 concerning business conducted in the location approved under the certificate:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(8) Failure to comply with ORS 822.133(2)(a), 822.137(2)(j) or OAR 735-152-0025(3) concerning physically separating or visually labeling a wrecked vehicle:
(a) For the first violation: $250;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.

(9) Failure to comply with ORS 822.133(2)(b) or 822.137(2)(j) concerning removing parts or destroying a motor vehicle before obtaining an ownership record for the vehicle:
(a) For the first violation: $500;
(b) For the second and subsequent violation(s): $1,000

(10) Failure to comply with ORS 822.133(2)(c) or 822.137(2)(j) concerning failure to demolish the registration plates of a wrecked vehicle at the time the ownership record is received:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(11) Failure to comply with ORS 822.133(2)(d) or 822.137(2)(j) concerning failure to notify DMV of any changes in the information provided to the DMV in the application for a dismantler certificate within 30 days of the change:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(12) Failure to comply with ORS 822.133(2)(e), 822.137(2)(j) or OAR 735-152-0034 concerning furnishing DMV with a written report, in a form established by DMV by rule, after a wrecked vehicle is dismantled or destroyed:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(13) Failure to comply with ORS 822.133(3)(a)(B), 822.137(2)(j) or OAR 735-152-0034 concerning the conspicuous display of the dismantler's name and certificate number on the mobile motor vehicle crusher:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(14) Failure to comply with ORS 822.135(1)(a) concerning the requirements to permanently exhibit a dismantler certificate at a place of business:
(a) For the first violation; warning;
(b) For the second violation: $500;
(c) For the third and subsequent violation(s): $1,000.

(15) Failure to comply with ORS 822.135(1)(b) or (L) concerning the requirements to obtain a supplemental dismantler certificate:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(16) Failure to comply with ORS 822.135(1)(c) concerning the maintenance of records:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(17) Failure to comply with ORS 822.135(1)(d) concerning failure to timely surrender to DMV the title, a certificate of title or other primary ownership document or ownership record for a motor vehicle:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(18) Failure to comply with any provision of ORS 822.135 (1)(e) or (m) concerning the inspection of books, records, inventory and premises:
(a) For the first violation: $500;
(b) For the second and subsequent violation(s): $1,000.

(19) Failure to comply with ORS 822.135(1)(f), (g), (k), or DMV rules concerning requirements for dismantler business location and premises:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(20) Failure to comply with ORS 822.135(1)(h) concerning conducting any wrecking, dismantling or altering of vehicles outside the building, enclosure, or barrier on the premises of the business:
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(21) Failure to comply with ORS 822.135(1)(i) concerning the storage or display of motor vehicles or major component parts, or conducting motor vehicle dismantling outside of a main business location or supplemental location.
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(22) Failure to comply with ORS 822.135(1)(j) concerning failure to immediately report to DMV information pertaining to the transfer of a wrecked or dismantled motor vehicle.
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(23) Failure to comply with ORS 822.135(1)(n) or (o) concerning the deployment or removal of any air bag containing sodium azide.
(a) For the first violation: warning;
(b) For the second violation: $250;
(c) For the third violation: $500;
(d) For the fourth and subsequent violation(s): $1,000.

(24) Failure to notify DMV of any change in the information provided to DMV in the application submitted under OAR 735-152-0005 within 30 days of the change:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(25) Failure to comply with any provision of ORS 822.137(2)(f) or OAR 735-152-0031 concerning dismantler motor vehicle records:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(26) Failure to comply with any provision of ORS 822.137(2)(g) or OAR 735-152-0031 concerning dismantler major component part records:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(27) Failure to comply with ORS 822.137(2)(a), by acquiring a motor vehicle or major component part without first obtaining a certificate of sale and, if applicable, a certificate of title:

(a) For the first violation: warning;

(b) For the second violation: $250;

(c) For the third violation: $500;

(d) For the fourth and subsequent violation(s): $1,000.

(28) Failure to comply with ORS 822.137(2)(b), regarding the possession, sale or disposal of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen: $1,000 for the first violation and subsequent violation(s).

(29) Failure to comply with ORS 822.137(2)(c), regarding selling, buying, receiving, concealing, possessing or disposing of a motor vehicle or any part of a motor vehicle having a missing, defaced, intentionally altered or covered vehicle identification number, unless directed to do so by a law enforcement official: $1,000 for the first violation and subsequent violation(s).

(30) Failure to comply with ORS 822.137(2)(d) by committing a forgery in the second degree, as defined in ORS 165.007, or misstating a material fact relating to a certificate of title, registration or other document related to a motor vehicle that has been reassembled from parts of other motor vehicles: $1,000 for the first violation and subsequent violation(s).

(31) Failure to comply with ORS 822.137(2)(e) by fraudulently creating or modifying a dismantler certificate: $1,000 for the first violation and subsequent violation(s).

(32) Failure to comply with ORS 822.137(2)(h) concerning a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by DMV, causes a loss to the purchaser: $1,000 for the first violation and subsequent violation(s).

(33) Failure to comply with ORS 822.137(2)(i) concerning being convicted of a crime involving false statements or dishonesty that directly relates to the business of the dismantler or suffers any civil judgment imposed for conduct involving fraud, misrepresentation or conversion: $1,000 for the first violation and subsequent violation(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.133, 822.135, 822.137, 822.150 & Ch. 433, OL 2011

Implemented: ORS 183.430, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140 & 822.150

Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 21-2007(Temp), f. 12-24-07, cert.ef. 1-1-08 thru 6-27-08; DMV 13-2008, f. & cert. ef. 6-23-08; DMV 19-2011, f. 12-22-11, cert. ef. 1-1-12

735-152-0070
Civil Penalty Considerations; Acting as a Dismantler Without a Certificate

Any person not issued a dismantler certificate under ORS 822.110, who violates the Oregon Vehicle Code or any DMV rule relating to the dismantling of motor vehicles, will incur, in addition to any other penalty provided by law, a civil penalty not to exceed $5,000 for each vehicle:

(1) DMV will assess penalties in accordance with the schedule set forth in OAR 735-152-0080.

(2) The Business Regulation Section of DMV may evaluate the amount of a civil penalty assessed in individual cases and may agree to payment of an amount other than originally assessed. In making such an evaluation, the Business Regulation Section may consider:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether the violations were willful or intentional; and

(d) Any other consideration DMV deems appropriate.

(3) DMV will refuse to issue a certificate under ORS 822.110 or to renew a certificate under ORS 822.110 to any person who fails to pay a civil penalty.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.100 – 822.150

Stats. Implemented: ORS 183.430 & 822.100 – 822.150

Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0080
Schedule of Violation Penalties, Unlicensed Dismantler

(1) In addition to any other penalty provided by law, the following civil penalty schedule applies to persons acting as a dismantler without a current dismantler certificate, including a dismantler who sells a vehicle while the dismantler's certificate is expired, suspended, cancelled, or revoked.

(2) This schedule does not apply to a person or dismantler exempt from dismantler certification requirements pursuant to ORS 822.105.

(3) Civil penalties under this schedule are assessed as follows:

(a) For the first offense: $2,500 per vehicle;

(b) For the second and subsequent offenses: $5,000 per vehicle.

(4) DMV may reduce a civil penalty assessed under subsection (3)(a) of this rule if:

(a) The person or dismantler applies for and is issued a dismantler certificate under ORS 822.110 or a certificate renewal under ORS 822.125, within 30 days of the date of notice of imposition of civil penalty for acting as dismantler without a certificate; or

(b) A hearing is requested and held in accordance with ORS Chapter 183, and within 30 days of issuance of a final order upholding the penalty, the person files with DMV a completed dismantler application that meets Oregon requirements for licensure.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.100 – 822.150

Stats. Implemented: ORS 183.430 & 822.100 – 822.150

Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

735-152-0090
Contested Case Hearings and Disposition

(1) The Business Regulation Section of DMV may, in accordance with ORS 183.415(5), make an informal disposition of any contested case prior to the conclusion of any hearing, resulting from a sanction or civil penalty assessed under OAR chapter 735, division 152. This disposition may include a stipulation, agreed settlement, consent order or default order.

(2) An informal disposition by stipulation, agreed settlement or consent order must be in writing, signed by any party to the contested case and incorporated into the final order.

(3) The administrative law judge presiding at a contested case hearing may not adjust the amount of a civil penalty imposed by DMV under OAR 735-152-0045 or 735-152-0070.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.100 – 822.150

Stats. Implemented: ORS 183.430 & 822.100 – 822.150

Hist.: DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06

DIVISION 154

TOWING BUSINESSES

735-154-0000
Regulations Governing Towing and Recovery Businesses

(1) Failure to meet or maintain any of the requirements of ORS 822.200 to 822.215 or OAR 735-154-0000 through 735-154-0050 relating to a towing or recovery business shall be cause to deny, suspend, revoke or refuse to issue or renew a towing business certificate.

(2) Definitions for the purposes of OAR 735-154-0000 through 735-154-0050 are as follows:

(a) As used in ORS 822.200(1)(c), "purports…to be engaged in…" means to solicit or advertise towing services through the telephone book, business directory, newspaper, radio, television, posting on vehicles, signs, business, billboards or by any other means;

(b) A "towing or recovery vehicle" means any motor vehicle used by any person(s) for the purpose of towing or recovering of vehicles;

(c) "Towing business certificate" or "certificate" means the vehicle registration card containing distinctive language indicating it is a certificate issued in conjunction with the vehicle registration, for towing or recovery services;

(d) "Distinctive plate" means the prescribed Oregon registration plate format with a five-digit identification number and two letter prefix "TW" indicating a tow or recovery vehicle; and

(e) "Stickers" means month and year stickers of a type in current use by the Driver and Motor Vehicle Services Division of the Department of Transportation to indicate staggered registration dates.

Stat. Auth.: ORS 802.010, 822.205 & 822.215
Stats. Implemented: ORS 822.215
Hist.: MV 14-1981, f. 10-30-81, ef. 11-1-81; MV 15-1982, f. & ef. 9-23-82; MV 15-1983, f. & ef. 12-5-83; Administrative Renumbering 3-1988, Renumbered from 735-071-0100; MV 21-1991, f. & cert. ef. 9-18-91

735-154-0005
Authority of Towing Business to Issue 10-day Trip Permits

(1) A towing business may issue 10-day trip permits as provided in ORS 803.600, if the towing business:

(a) Submits a completed and signed agreement to issue trip permits to DMV; and

(b) Agrees to abide by the Oregon statutes and administrative rules relating to the issuance and sale of 10-day trip permits, including but not limited to ORS 803.600 and OAR 735-034-0010.

(2) DMV may revoke the authority of a towing business to issue 10-day trip permits if the towing business fails to comply with the requirements of ORS 803.565 and OAR 735-034-0010.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600, 822.205, 822.215
Stats. Implemented: ORS 803.600, 822.215
Hist.: DMV 28-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 9-2004, f. & cert. ef. 5-24-04; DMV 3-2011, f. & cert. ef. 3-16-11

735-154-0010
Requirements for Towing Business Certificate

(1) In addition to meeting the requirements for an application for a towing business certificate under ORS 822.200 to 822.215 or a renewal under 822.210, an applicant for a towing vehicle certificate must submit the following to the DMV for each tow vehicle:

(a) A completed and signed Application for Tow or Recovery Vehicle Business Certificate (DMV Form 735-387);

(b) An application for title and registration, if titling and registering a vehicle;

(c) An application for registration, if only registering a vehicle; and

(d) All applicable fees.

(2) At the time that a tow or recovery vehicle is transferred or no longer operates as a tow or recovery vehicle, the towing business certificate, plates and stickers issued to the vehicle must be surrendered to DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.205 & 822.215
Stats. Implemented: ORS 822.205
Hist.: MV 14-1981, f. 10-30-81, ef. 11-1-81; MV 15-1982, f. & ef. 9-23-82; Administrative Renumbering 3-1988, Renumbered from 735-071-0105; MV 21-1991, f. & cert. ef. 9-18-91; DMV 5-2006, f. & cert. ef. 5-25-06

735-154-0040
Minimum Safety Standards

(1) At the time of original application, the applicant shall certify the tow or recovery vehicle is in compliance with the minimum safety standards required by this rule. These standards only apply to tow and recovery vehicles registered under OAR 735-154-0000 through 735-154-0050.

(2) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may make random safety-related inspections without notice to ensure compliance.

(3) No motor vehicle shall be used for tow or recovery services unless the following safety requirements are met:

(a) The vehicle is in compliance with equipment and lighting requirements of the Oregon Revised Statutes;

(b) The vehicle is in compliance with **Title 49 Code of Federal Regulations, Parts 570.4, 570.5, 570.6, 570.7 (except paragraph "d"), 570.8, 570.9, 570.10, 570.54, 570.55, 570.56, 570.57, 570.58, 570.59 (except the combination of vehicles and truck tractors must stop in a distance of not more than 35 feet), 570.60 (except paragraph "d"), 570.61, 570.62 and 570.63**.

(4)(a) Cables or wire ropes shall have a minimum diameter of 3/8 inch and be free from the following defects or conditions:

(A) More than six randomly-distributed broken wires in one rope lay, or more than three broken wires in any one strand in one rope lay;

(B) Evidence of any heat damage from any cause;

(C) Core protrusion along the main length of the cable unless tension applied to the cable restores proper rope structure;

(D) End attachments that are cracked, deformed, worn or loosened.

(b) Where a wire rope is attached to a hook with clamps instead of being swagged, a minimum of three clamps shall be used. Clamps shall be spaced at least six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the rope. The "U-bolt" shall be placed over the short or "dead" end of the rope.

(5) All booms, lift equipment, hydraulic hoses, connections, and any other equipment mounted or used on the tow or recovery vehicle shall be maintained in proper working order as recommended by the manufacturer of the equipment.

(6) All equipment, cable or wire rope, connectors, slings, or any other tow or recovery equipment used in conjunction with the basic vehicle and vehicle-mounted equipment shall be commensurate with the manufacturer's basic load and boom rating for each vehicle or vehicle-mounted equipment.

Stat. Auth.: ORS 802.010, 822.205 & 822.215
Stats. Implemented: ORS 822.205
Hist.: MV 14-1981, f. 10-30-81, ef. 11-1-81; MV 15-1982, f. & ef. 9-23-82; Administrative Renumbering 3-1988, Renumbered from 735-071-0120; MV 21-1991, f. & cert. ef. 9-18-91

735-154-0050
Inspection of Vehicles

(1) Every tow or recovery business shall make their vehicles available for inspection by authorized representatives of the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) upon request during reasonable business hours.

(2) No DMV representative may inspect a vehicle when the inspection would cause a disruption of normal business.

(3) No DMV representative may road-test any vehicle or remove any wheels in the course of an inspection.

(4) A DMV representative, when there is cause, may require the owner or a designee, to road-test a vehicle or require the removal of a wheel or wheels by a mechanic of the owner's choice.

Stat. Auth.: ORS 802.010, 822.205 & 822.215
Stats. Implemented: ORS 822.215

Hist.: MV 14-1981, f. 10-30-81, ef. 11-1-81; MV 15-1982, f. & ef. 9-23-82; Administrative Renumbering 3-1988, Renumbered from 735-071-0125; MV 21-1991, f. & cert. ef. 9-18-91

735-154-0060
Lessee as Owner on Leased Tow or Recovery Vehicle

Notwithstanding ORS 801.375(1)(b) and 803.050, the lessee shall appear as owner on the Certificate of Title for a vehicle when:

(1) Application for a towing business certificate is made and the vehicle is engaged in any towing or recovery business operation; and

(2) Special tow or recovery plates or identification devices are issued in conjunction with the vehicle registration.

Stat. Auth.: ORS 801.375, 802.010, 803.050, 805.200, 822.205, 822.210 & Ch. 551, OL 1991
Stats. Implemented: ORS 801.375 & 803.050
Hist.: MV 30-1991, f. & cert. ef. 12-16-91

DIVISION 158

VEHICLE APPRAISERS

735-158-0000
Vehicle Appraiser Certificate

(1) An applicant for a vehicle appraiser certificate or renewal under ORS 819.480 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Vehicle Appraiser Certificate (DMV Form 735-6610);

(b) All applicable fees; and

(c) Except as provided in section (2) of this rule, proof of two years combined work experience as a vehicle appraiser:

(A) For a new or used car business, tow business, insurance company, vehicle body repair business, law enforcement agency or any other state or local jurisdiction; or

(B) In the operation or employment of a certified vehicle dismantler business.

(2) A qualified applicant for a vehicle appraiser certificate may substitute a certificate of completion of the Vehicle Appraiser Education Program established under OAR 735-152-0010 for proof of work experience required under subsection (1)(c) of this rule. For purposes of 735-158-0010 and this section, "qualified applicant" means an individual who, as a condition of employment, is:

(a) Required to conduct vehicle appraisals under ORS 819.210, 819.215 or 819.280; and

(b) Required to conduct vehicle appraisals as an employee of a towing business that holds a valid towing business certificate issued under ORS 822.205 and OAR chapter 735, division 154; or

(c) Employed by a public agency authorized to take a vehicle into custody and tow the vehicle as described under ORS 819.140. This includes state, city and county law enforcement agencies and other agencies responsible for enforcing laws relating to abandoned vehicles and vehicles that constitute a roadside hazard.

(3) DMV will not process an application that is incomplete. An incomplete application and the fees submitted with the application will be returned to the applicant.

(4) When DMV denies issuance or renewal of a vehicle appraiser certificate, DMV will retain the fees submitted with the application to cover the cost of processing the application.

(5) In addition to any other penalty provided by law, DMV may suspend, revoke, or refuse to issue or renew a vehicle appraiser certificate on the following grounds:

(a) Making a false or misleading statement or misrepresentation, including by act of omission, pertaining to:

(A) An application for a vehicle appraiser certificate;

(B) A vehicle appraiser report;

(C) Any document required by DMV; or

(D) Any investigation by DMV or law enforcement.

(b) Failure to comply with any applicable statute or rule pertaining to a vehicle appraiser certificate.

(c) DMV determines the applicant was convicted of a felony or misdemeanor related to fraud or dishonesty, if the conviction occurred less than three years before the date of application.

(6) A vehicle appraiser or applicant for a vehicle appraiser certificate who is subject to suspension, revocation or refusal to issue or renew the vehicle appraiser certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS Chapter 183.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480
Stats. Implemented: ORS 819.210, 819.215, 819.480, 819.482 & 822.700
Hist.: MV 25-1981(Temp), f. & ef. 12-1-81; MV 13-1982, 5-28-82, ef. 6-1-82; MV 27-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0078; DMV 7-2002(Temp), f. 3-14-02, cert. ef. 3-18-02 thru 9-13-02; DMV 13-2002, f. & cert. ef. 6-24-02; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 13-2007, f. & cert. ef. 11-30-07; DMV 8-2009, f. & cert. ef. 3-20-09; DMV 22-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DMV 11-2010, f. & cert. ef. 6-16-10

735-158-0005
Vehicle Appraiser Education Program

(1) Training Requirements. The Vehicle Appraiser Education Program is a non-vocational training program designed for individuals who need a vehicle appraiser certificate as a condition of employment, as described in OAR 735-158-0000(2). The training, conducted by DMV-approved instructors, provides education on the basic skills and minimum knowledge required to appraise vehicles in Oregon. The training is a minimum of four hours and covers:

(a) Oregon laws and administrative rules applicable to certified vehicle appraisers and the appraisal of vehicles, including but not limited to:

(A) Privileges granted by an appraiser certificate and certificate renewal;

(B) Reporting requirements and appraisal-related forms; and

(C) Procedures and requirements regarding the towing of vehicles from a public right-of-way or private property, and the disposition of vehicles when towed.

(b) Accepted appraisal methods, determining vehicle value and how to recognize high-value vehicles and collector cars; and

(c) Resources of information relating to vehicle appraisers and the appraisal of vehicles. For example, information may be obtained from associations, car clubs, publications, vehicle valuation guides, seminars, or websites.

(2) Individuals who successfully complete the training program will receive a statement of completion from the training instructor. The statement may be submitted to DMV as proof of work experience required under OAR 735-158-0010 when applying for a vehicle appraiser certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480
Stats. Implemented: ORS 819.210, 819.215, 819.480, 819.482 & 822.700
Hist.: DMV 8-2009, f. & cert. ef. 3-20-09; DMV 22-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DMV 11-2010, f. & cert. ef. 6-16-10

735-158-0010
Vehicle Appraiser Education Program; Instructor Qualifications; Requirements

(1) A person who wishes to become a DMV-approved Vehicle Appraiser Education Program instructor must:

(a) Hold a valid Oregon Vehicle Appraiser Certificate;

(b) Have a minimum of five consecutive years experience as a certified vehicle appraiser in Oregon; and

(c) Submit a written request to become an instructor to DMV Business Regulation Section, 1905 Lana Ave. NE, Salem Oregon 97314. The request must include the following information for the person making the request:

(A) Name, mailing address and telephone number;

(B) A copy of the person's current Vehicle Appraiser Certificate. The copy must show the certificate number, date of issuance and date of expiration; and

(C) An outline of the curriculum the instructor plans to use for the training. At a minimum, the curriculum must cover all topics described under OAR 735-158-0005(1) and include a least four hours of training.

(2) DMV will notify a person who submits a request to become a Vehicle Appraiser Education Program instructor upon approval or denial of their request.

(3) A DMV-approved instructor may conduct training classes at anytime. However, the instructor must submit the following to DMV within seven business days of completing a training:

(a) The date and time of the training; and

(b) For each person who successfully completes the training:

(A) The person's name, mailing address and telephone number; and

(B) The name, mailing address and telephone number of the tow company or public agency with whom the person is employed.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480
Stats. Implemented: ORS 819.210, 819.215, 819.480, 819.482 & 822.700
Hist.: DMV 8-2009, f. & cert. ef. 3-20-09; DMV 22-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 6-30-10; DMV 11-2010, f. & cert. ef. 6-16-10

DIVISION 160

DRIVER TRAINING

735-160-0003
Purpose and Exemptions

(1) The purpose of chapter 735, division 160 rules is to outline the requirements for a Commercial Driver Training School Certificate pursuant to ORS 822.515 and a Driver Training Instructor Certificate pursuant to ORS 822.530.

(2) Except as provided in ORS 822.500(2) and section (4) of this rule a person must obtain a Commercial Driver Training School Certificate to operate, for consideration, a business or nonprofit enterprise engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both.

(3) Except as provided in ORS 822.525(2) and section (4) of this rule, a person must obtain a Driver Training Instructor Certificate if, for compensation, the person teaches, conducts classes, gives demonstrations to or supervises practice in the driving of motor vehicles. This section applies to persons acting on their own behalf, or acting as an operator of or on behalf of, any business, nonprofit enterprise, or school engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both.

(4) A person that provides limited driver education or training for a specialized purpose is exempt from the requirement to obtain either a Commercial Driver Training School Certificate or a Driver Training Instructor Certificate.

(5) For purposes of ORS 822.500, 822.525 and section (4) of this rule, the following are persons who provide limited driver education or training for a specialized purpose:

(a) A rehabilitation specialist engaged in evaluating, assessing or retraining drivers to compensate for a physical or mental condition or impairment.

(b) A provider of a DMV approved accident prevention course offered primarily for insurance discount purposes pursuant to ORS 742.490.

(c) A provider who teaches specialized driving skills to drivers of emergency vehicles as defined by ORS 801.260.

(d) An employee of a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business, nonprofit enterprise or school who hold valid driver licenses.

(e) A person hired by, or contracting with, a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business or nonprofit enterprise who hold valid driver licenses.

(f) A federal, state, county or city agency that provides driver safety training to members of the public who hold valid driver licenses, including, but not limited to teaching people how to drive in adverse weather conditions, a safe-driving program or a motorcycle safety program.

(g) A provider of off-the-highway instruction in the operation of off-road racing vehicles to persons holding valid driver licenses.

(h) A provider of off-the-highway instruction in the operation of off-road all terrain vehicles (ATVs).

(i) A provider of training conducted exclusively over the internet, if no classroom or behind-the-wheel training is conducted at any physical location in Oregon.

(j) A provider of driver improvement or similar driver safety instruction for the purpose of a court-order or for a court diversion program.

(k) An insurer, or person acting on behalf of an insurer, who provides defensive driving training or similar driver safety instruction for the purpose of reducing insurance premiums, not used to meet a DMV requirement.

(l) Providers of off the highway training conducted exclusively for currently licensed drivers who are taking the training to gain specific skills, not used to meet a DMV requirement. Examples of

specific skills training include, but are not limited to, hazardous driving conditions training, crash avoidance training or tactical driver training.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500 & 822.525
Stats. Implemented: ORS 822.500, 822.515, 822.525 & 822.530
Hist.: DMV 25-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 18-2008, f. & cert. ef. 7-23-08; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0005
Definitions

The following definitions apply to terms in chapter 735, division 160 rules.

(1) "Behind-the-wheel" instruction means the portion of the training that requires the student to be located in the automobile.

(2) "Cancellation" in regards to a School Certificate or Instructor Certificate means to declare a School Certificate or Instructor Certificate void with a new certificate obtainable only as defined in OAR 735-160-0115(12).

(3) "Code of Ethics and Rules of Conduct Violation" means any violation of the standards established by OAR 735-160-0130.

(4) "Commercial Driver Training School" or "School" means a privately or publicly owned driver training facility in Oregon that has been issued a School Certificate by DMV to provide student drivers behind-the-wheel instruction, classroom instruction or both, for a fee.

(5) "Commercial Driver Training School Operator" or "Operator" means the person designated on the School Certificate as the representative responsible for the operation of a Commercial Driver Training School certified by DMV.

(6) "Commercial Driver Training School Instructor" or "Instructor" means a person issued an Instructor Certificate by DMV who is an employee of a Commercial Driver Training School, and who teaches, conducts classes, gives demonstrations or supervises the practice of student drivers.

(7) "Corrected School Certificate" means a certificate issued based on an application submitted by an Operator to:

(a) Correct or change a school name or address; or

(b) Correct or change the person designated as the school's Operator.

(8) "Corrected Instructor Certificate" means a certificate issued based on an application submitted by an Instructor to:

(a) Correct or change the name or address of the school employing the Instructor; or

(b) Correct or change the Instructor's name.

(9) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(10) "Employee" means an individual who may or may not provide services for the school for compensation. For purposes of these rules, this definition includes an independent contractor.

(11) "Instructor Certificate" means a certificate issued by DMV as provided in ORS 822.530 to a Commercial Driver Training School Instructor to provide, for a fee, student drivers behind-the-wheel instruction, classroom instruction, or both.

(12) "Instructor Card" means a Card issued to an Instructor certified by DMV as evidence of Instructor certification.

(13) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a territory or province of Canada, any state of the Republic of Mexico or the Federal District of Mexico or foreign government that has legal authority to issue driver licenses.

(14) "Permanent classroom facility" means a classroom used on a continuing, ongoing basis.

(15) "Revocation" means the termination of the authority granted under a School Certificate or an Instructor Certificate for a specified period, with a new certificate obtainable only as defined under 735-160-0115(11).

(16) "School Certificate" means a certificate issued by DMV as provided in ORS 822.515 to a Commercial Driver Training School Operator.

(17) "Student driver" or "student" means a person who is receiving classroom or behind-the-wheel instruction, or both, at a Commercial Driver Training School.

(18) "Supplemental School Certificate" means a certificate issued by DMV that authorizes a school to operate, under the same business name, at an additional business location that is 500 or more feet beyond any other authorized business location of the school. An additional business location includes a location where business records are kept and business activities are conducted but does not include a location where only instruction is provided.

(19) "Suspension" means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under a School Certificate or an Instructor Certificate.

(20) "Traffic crime" means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any misdemeanor or felony involving the use of a motor vehicle that may result in a jail sentence.

(21) "Warning" means a written correction notice issued by DMV to the Operator or an Instructor of a Commercial Driver Training School that requires corrective action be taken as specified by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.515
Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0010
Commercial Driver Training School Operator Qualifications

(1) An Operator of the school must be at least 21 years of age and meet the qualification requirements of sections (2) through (7) of this rule.

(2) An Operator must not have a conviction for any of the following crimes:

(a) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for a School Certificate or Corrected School Certificate is submitted to DMV;

(b) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266;

(c) Any sexual offense, with or without force, any offense related to child pornography or any offense compelling or promoting prostitution;

(d) Any crime involving death, injury or threat of injury to another person;

(e) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(f) Any crime relating to the unlawful possession, use, sale, manufacture or distribution of controlled substances or alcoholic beverages.

(3) An Operator who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. DMV may issue a School Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence DMV determines that the conviction does not affect the person's fitness to be an Operator.

(4) An Operator must not engage in conduct that is substantially related to the person's fitness to be an Operator or that demonstrates unfitness and inability to perform the responsibilities of an Operator. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Operator or poses a risk to the safety of others while performing those responsibilities.

(5) An Operator may not be the operator of any school in Oregon if a School Certificate issued to the operator is currently revoked for an offense described in OAR 735-160-0010(2). An Operator may not be the operator of any school in Oregon if a School Certificate issued to the Operator is currently suspended, revoked, canceled, or withdrawn unless the School Certificate is reinstated or is eligible and the Operator meets all eligibility requirements of OAR 735-160-0010.

(6) An Operator must not have been the operator of any school in another jurisdiction that has been suspended, revoked, canceled, or withdrawn for the same or a similar offense as described in OAR 735-160-0010(2) within five years preceding the date of application for a School Certificate or Corrected School Certificate. DMV will review the results of an operator's criminal history to determine whether the offense is applicable.

(7) The criteria described in this rule apply to a current School Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Operator fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500, 822.515 & 822.530
Stats. Implemented: ORS 822.500 & 822.515
Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0010; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0011
Issuance of Commercial Driver Training School Certificate

(1) An Operator must apply for an original or renewal School Certificate pursuant to ORS 822.515 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the qualifications listed in OAR 735-160-0010;

(c) Authorize DMV to obtain the Operator's criminal background information. Criminal background information will only be used to determine Operator qualifications and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records law.

(d) Submit a School bond that complies with the requirements of ORS 822.505, on a form prescribed by DMV, and certify that a bond will remain in effect as long as the School Certificate is valid;

(e) Submit proof of insurance that complies with the requirements of ORS 822.510, on a form prescribed by DMV. The Operator must certify that insurance will remain in effect as long as the School Certificate is valid;

(f) Submit the fee required under ORS 822.700; and

(g) Register the business name with the Secretary of State, Corporation Division and provide the registry number.

(2) The business location of the School must comply with the requirements of OAR 735-160-0020.

(3) Once issued, a School Certificate is not transferable to any other Commercial Driver Training School.

(4) An Operator must submit to DMV a renewal application, supporting documents and payment for a School Certificate no later than the last day of the calendar year. DMV will provide a grace period of 45 days for the application to be processed during which time the existing School Certificate will remain valid. A renewal application that is received after the expiration date of the existing School Certificate will be treated as an application for an original School Certificate.

(5) DMV will not issue or renew a School Certificate if:

(a) The qualifications or requirements set forth in Chapter ORS 822 and OAR chapter 735 division 160 rules are not met; or

(b) DMV determines information contained in the application is false.

(6) If DMV refuses to issue or renew a School Certificate, DMV will notify the Operator in writing. The Operator may request a contested case hearing. The hearing is conducted in accordance with the contested case provisions of the Administrative Procedures Act, ORS 183.310 to 183.500 and is subject to the following:

(a) A request for hearing must be submitted in writing to and received by DMV within 20 days of the date the refusal notification is mailed to the Operator. DMV will not issue a School Certificate pending the outcome of the contested case hearing. If DMV refuses to renew a School Certificate, the expired School Certificate remains valid pending the outcome of the contested case hearing, unless the basis for the refusal is failure to provide or maintain a School bond or provide proof of insurance, as required, or DMV determines continued operation of the School would constitute a serious danger to the public health or safety.

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no School Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and the OAR chapter 735, division 160 rules are satisfied.

(7) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of a School Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510 & 822.515
Stats. Implemented: ORS 822.500, 822.510 & 822.515
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0015
Commercial Driver Training School Operator Responsibilities

(1) An Operator must:

(a) Notify DMV by mail, email or facsimile within 10 calendar days of any of the following:

(A) The location of any permanent classroom facility changes;

(B) The School goes out of business and ceases operations;

(C) The Operator no longer meets or maintains the qualifications set forth in OAR 735-160-0010;

(D) The School does not maintain the requirements set forth in OAR 735-160-0011;

(E) An Instructor whose employment with the School has terminated; or

(F) An Instructor employed by the School who no longer meets or maintains the qualifications, responsibilities or requirements set forth in OAR 735-160-0075, 735-160-0080, and 735-160-0095, including an explanation of why the Instructor no longer meets the qualifications, responsibilities, or requirements.

(b) File an application with DMV for a Corrected School Certificate within 10 calendar days if the name or address of the School changes or the School Operator's name changes. If the name of the School changes, the Operator must submit bond and insurance documents in the new business name to DMV within thirty (30) days;

(c) Make any and all business records, vehicles and facilities related to the operation of the School available for inspection by a DMV inspector in accordance with OAR 735-160-0030. DMV may conduct an inspection with or without prior notice to the School Operator;

(d) Establish procedures that reasonably insure no Instructor or student is under the influence of any intoxicant during classroom or behind-the-wheel instruction;

(e) Provide student with a copy of, or prominently display in a publicly accessible and conspicuous manner, a complaint procedure that includes DMV contact information;

(f) Comply with all statutes, administrative rules, and regulations related to the operation of a Commercial Driver Training School;

(g) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;

(h) Authorize only a person that has been issued an Instructor Certificate, who is employed by the School, to provide classroom or behind-the-wheel instruction to a student driver;

(i) Notify DMV by facsimile, email or mail within 24 hours (excluding weekends and state holidays) of any:

(A) Notice of a civil legal action filed against the School, Operator or an Instructor which is related to the School's operations; or

(B) Criminal investigation, arrest or conviction for an offense described in OAR 735-0160-0010(2); and

(j) If requested, respond to DMV by mail, email or facsimile within 10 calendar days to any complaint received by DMV.

(2) An Operator must not:

(a) Falsify or tamper with any records;

(b) Act as a Commercial Driver Training Instructor unless the Operator has been issued an Instructor Certificate by DMV;

(c) Transfer or allow any other School or Operator to use the School Certificate issued to the Operator;

(d) Knowingly assist a person to fraudulently obtain driving privileges from DMV; or

(e) Permit an Instructor who works for the School to:

(A) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the School. This subsection does not apply to instruction given by an Instructor to his or her immediate family members;

(B) Conduct any behind-the-wheel instruction with any student driver not in possession of a valid driver license or instruction permit;

(C) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(D) Provide questions and answers that are identical to a DMV knowledge test during classroom training;

(E) Allow any Instructor who does not have a valid Oregon driver license to conduct behind-the-wheel instruction and not allow any Instructor who does not have a valid driver license to conduct classroom training.

(f) Permit any person under the age of 19 to conduct any instruction, or permit any person under the age of 21 to conduct behind-the-wheel instruction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510, 822.515 & 822.530

Stats. Implemented: ORS 822.505, 822.510 & 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0020
Location and Advertising

(1) No School may have a business location closer than 1,500 feet to any DMV office, unless it has continuously operated in that location prior to the opening of the DMV office.

(2) No School may be operated from a liquor store, bar, tent, temporary stand, temporary address, mailing service, or through a telephone answering service.

(3) Every School must have a business location in Oregon having at least one structure where records required to be maintained are kept and made available for DMV inspection. The School Certificate must list the business location.

(4) A Commercial Driver Training School with more than one business location must, on a form supplied by DMV, apply for and be issued a Supplemental School Certificate for each additional business location not listed on the School Certificate. A supplemental business location must be 500 or more feet from any other business location of the School and must operate under the same business name as that listed on the School Certificate. The Supplemental School Certificate must list the supplemental business location.

(5) If the business location changes, the School must be issued a Corrected School Certificate before business may be conducted at the new location. If the name of the School changes, the School must obtain a Corrected School Certificate and Corrected Supplemental School Certificate for each business location before business may be conducted under the new name.

(6) Access to the most current Oregon Vehicle Code statutes and the most current Oregon Administrative Rules relating to driver licensing must be available at each business location and supplemental business location of the School. The statutes and administrative rules must be made available for view by the public upon request. Access to the statutes and administrative rules may be provided electronically through the internet.

(7) The following advertising practices must be followed:

(a) No advertisement, publication, employee or other person affiliated with the School may indicate or imply that enrollment in the School guarantees issuance of driving privileges;

(b) No employee or other person affiliated with the School may solicit business or cause business to be solicited on its behalf or display or distribute any advertising material within 1,500 feet of any DMV office, unless the business location of the School is within 1,500 feet as authorized under section (1) of this rule;

(c) School forms, agreements, advertising and business premises signs may say: "This school is certified by the State of Oregon." There may be no suggestion, either express or implied, in any form, agreement, advertisement, publication, business solicitation, or business sign that the School is endorsed or recommended by the State of Oregon or any agency of the State;

(d) Only the business location or supplemental business location address as it appears on the School Certificate or Supplemental School Certificate may be included in any advertisement or business solicitation;

(e) No advertisement, publication, or business solicitation may be false, deceptive, or misleading and no employee or other person affiliated with the School may disseminate false, deceptive, or misleading information about the School or authorize others to do the same;

(f) Only the School name as it appears on the current School Certificate may be used in any publication, form, advertisement, business solicitation, or sign; and

(g) No advertisement, publication, employee, or other person affiliated with the School may knowingly encourage persons who are not domiciled in or residents of Oregon to apply for Oregon driving privileges.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.515

Stats. Implemented: ORS 822.515

Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0015; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0030
Commercial Driver Training School Records

(1) The records of all student drivers enrolled in any class or course offered by the school must be retained as set forth in this rule, including the records of those student drivers who withdrew or were terminated from the school.

(2) A student driver record must contain, but is not limited to the following:

(a) The complete name of the student driver;

(b) The driver license or instruction permit number of the student driver and the name of the state that issued the license or permit if available;

(c) The name and Instructor Certificate number of each Instructor who provided training;

(d) Number of hour(s), date(s) of service, and type of training (behind-the-wheel or classroom) participated in by the student driver;

(e) All written contracts or agreements, signed by the student driver; and

(f) A copy of the school grievance procedure for handling student or parent complaints, unless grievance procedure is posted in accordance with 735-160-0015(1).

(3) The records of all school instructors, including current and past instructors must be retained as set forth in this rule. An instructor record must contain:

(a) The instructor's driver license number, date(s) of employment with the school, job application or resume; and

(b) A copy of the Instructor Certificate issued by DMV to the instructor.

(4) Maintain a monthly listing containing information from OAR 735-160-0030(2)(a), (b), (c) and (d) (above) for students that participated in driver training. This list must be made available to DMV upon request.

(5) The original student driver records, instructor records and any records documenting compliance with any statutes or administrative rules must be maintained as originals in paper format or electronically for a period of three years at the business location, or may be kept at a supplemental business location certified by DMV if the records relate to student drivers or instructors at the supplemental location. For good cause shown or upon a showing of a

business necessity, DMV, in its sole discretion, may authorize an operator to maintain the school records at another location within the State of Oregon.

(6) Instructor records must be maintained permanently for current employees. After employee separation, instructor records must be kept for an additional three years after the separation date.

(7) All records must be made available to DMV within 5 (five) business days of request, excluding weekends and state holidays.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.515
Stats. Implemented: ORS 822.515
Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0020; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05

735-160-0035
Inspection and Investigation

(1) DMV will periodically inspect a School to determine it is complying with all laws and administrative rules pertaining to Commercial Driver Training Schools, including Instructor certification and operation requirements.

(2) All records subject to this rule must be available for inspection by an authorized representative(s) of DMV. DMV may conduct a random inspection of the business premises, records, or equipment of a School to review compliance with Oregon statutes and administrative rules. DMV may give notice and arrange an appointment with the Operator prior to an inspection, or may conduct a random inspection without providing notice to the Operator. The Operator must consent to and fully cooperate with any inspection.

(3) Inspections may include examination of:

(a) All student driver records regardless of whether the student driver completed or failed to complete the School's driver training program;

(b) The records of current or former Instructors employed by the School;

(c) Any motor vehicles used for training student drivers, to ensure that the vehicles meet the equipment standards of OAR 735-160-0040;

(d) Any curriculum and instructional materials used to teach or demonstrate how to drive; and

(e) Those facilities, records, or equipment DMV deems necessary to inspect, in its discretion, to ensure that the School is complying with all applicable provisions of law.

(4) Refusal to permit DMV to conduct an inspection will result in a sanction imposed pursuant to OAR 735-160-0125.

(5) DMV may investigate any complaint it receives about an Operator or Instructor. The Operator, Instructor and employees of the School must cooperate with DMV during the investigation. If requested by DMV, the Operator must respond to the complaint in writing and submit the response to DMV by mail, email or facsimile within 10 calendar days from the date DMV notifies the Operator of the complaint.

(6) DMV will prepare a written report of each inspection and investigation. A copy of the DMV report, including any sanction or corrective action, will be sent to the Operator.

(7) The Operator must correct any deficiency identified by a DMV inspector during an on-site inspection, within 30 calendar days of the date the inspection report requiring corrective action is issued by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.515
Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0040
Vehicle Equipment

(1) Any motor vehicles owned or leased by a School for behind-the-wheel instruction must:

(a) Be equipped with dual controls. Dual controls consist of:

(A) A foot brake control for both the student driver and the instructor, connected either by mechanical or hydraulic means; and

(B) A clutch control connected either by mechanical or hydraulic means if the vehicle is equipped with a manual transmission.

(b) Be maintained in safe mechanical and physical condition;

(c) Meet the safety equipment standards of the Oregon Vehicle Code, as provided in ORS Chapter 815;

(d) Be equipped with safety belts that meet the standards required under ORS 815.055 and OAR 735-102-0000, for each person in the vehicle;

(e) Have all equipment functioning properly;

(f) Be properly registered in compliance with the laws of Oregon;

(g) Be covered by at least the minimum insurance requirements established under ORS 822.510; and

(h) Be equipped with the following emergency equipment:

(A) Fire extinguisher;

(B) First aid kit; and

(C) Three flares or three red emergency triangles.

(2) Motorcycles or mopeds are not required to comply with subsections (1)(a), (d) and (h) of this rule.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.515
Stats. Implemented: ORS 822.515
Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0025; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05

735-160-0050
Curriculum Standards and Courses for Commercial Driver Training School Program

(1) The curriculum standards established in sections (2) and (3) of this rule will have the goal of proper training of student drivers to provide maximum safety for all persons who travel or otherwise use the public highways, and to reduce traffic violations and traffic crashes.

(2) Classroom training may include, but need not be limited to, instruction on:

(a) Knowledge of Oregon motor vehicle statutes and administrative rules related to the operation of a motor vehicle on public highways and premises open to the public;

(b) Safe driving practices;

(c) Driving techniques for different types of roads and road surfaces, and for safe driving near pedestrians, trains, and other vehicles including, but not limited to, cars, trucks, bicycles, and motorcycles;

(d) Driver responsibility including, but not limited to, automobile maintenance, insurance, use of safety belts and child restraints, passenger safety, and the implied consent laws;

(e) Defensive driving practices and techniques;

(f) How the laws of physics affect driving;

(g) How a driver's physical, emotional, and psychological condition affects driving ability;

(h) How driver use of alcohol, drugs, inhalants, or other substances affect driving ability; and,

(i) Dealing with emergency situations and vehicle malfunctions while driving.

(3) Behind-the-wheel instruction may include, but need not be limited to, instruction on:

(a) Operation of vehicle controls;

(b) Performing vehicle maneuvers such as starting, stopping, lane changes, backing, braking, parking, steering, and turning a vehicle under a variety of traffic conditions;

(c) Managing space around the vehicle by adjusting speed and position to avoid conflicts and reduce risk;

(d) Processing traffic and vehicle information into speed and position changes based on visual skills, space management, vehicle speed control, and control of road; and

(e) Precision movements for maintaining vehicle control and balance in expected and unexpected situations based on vehicle speed control, vehicle balance, collision avoidance, traction control, response to mechanical failures, and traction loss.

(4) During any behind-the-wheel instruction session, the following safety requirements must be met:

(a) Only the student driver operating the vehicle and the instructor shall be seated in the front seats of the vehicle; and

(b) All vehicle occupants shall use safety belts at all times while in the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.515
Stats. Implemented: ORS 822.515
Hist.: MV 43, f. & ef. 12-8-69; Administrative Renumbering 3-1988, Renumbered from 735-051-0030; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05

735-160-0075
Commercial Driver Training School Instructor Qualifications

(1) No person will teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless he or she is issued an Instructor Certificate by DMV.

(2) To be eligible for an Instructor Certificate, or to renew or maintain an Instructor Certificate, a person must:

(a) Be at least 21 years of age to conduct behind-the-wheel training and age 19 to conduct classroom training;

(b) Be an employee of a School that holds a valid and current School Certificate issued by DMV;

(c) Have valid Oregon driving privileges, or valid driving privileges from another jurisdiction, for at least three years preceding the date an application for an Instructor Certificate is submitted to DMV if the person will only conduct classroom training, or valid driving privileges for at least five years preceding the date an application for an Instructor Certificate is submitted to DMV if the person will conduct behind-the-wheel instruction. To be valid, driving privileges must not be suspended, revoked, canceled, or otherwise withdrawn for a violation of a traffic crime described in OAR 735-160-0005(20) and ORS 801.545. For purposes of these OAR 735 division 160 rules, a hardship or probationary permit does not constitute valid driving privileges. A person who has not held Oregon driving privileges for the periods described above, may be required to submit a certified driving record from each jurisdiction that issued driving privileges during that period;

(d) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(B) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving death, injury or threat of injury to another person;

(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages;

(e) Not engage in conduct that is substantially related to the person's fitness to be an Instructor or that demonstrates unfitness and inability to perform the responsibilities of an instructor. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Instructor or poses a risk to the safety of others while performing those responsibilities; and

(f) Have received a passing score on the written knowledge test and the certification drive test described in OAR 735-160-0100 if the person is required to take the certification drive test under OAR 735-160-0080(3).

(g) Currently have valid Oregon driving privileges if the person will conduct behind-the-wheel training.

(3) A person is not eligible for an Instructor Certificate, and will not be allowed to renew or maintain an Instructor Certificate if:

(a) The person has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle;

(b) The person's vision in both eyes, with or without corrective lenses, does not meet a minimum acuity of 20/40. Corrective lenses do not include bioptic telescopic lenses. This requirement does not apply to a person applying to conduct only classroom training.

(c) The person's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section applies if the person's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for an Instructor Certificate or Corrected Instructor Certificate is submitted to DMV;

(d) The person is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the person was enrolled or participated in a diversion program anytime within the five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(e) The person has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for an Instructor Certificate is submitted;

(f) The person refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person refused a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(g) The person fails to pass a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person fails a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(h) The person is an Instructor at any School in Oregon whose School Certificate is currently revoked, canceled, or withdrawn unless the Operator has completed the terms of their sanction according to OAR 735-160-0125; or

(i) The person has an Instructor Certificate or School Certificate that is suspended, revoked, canceled, or withdrawn or a similar sanction in this or in any other jurisdiction, on the date the application for an Instructor Certificate is submitted to DMV. The person must disclose on the application if he or she has been certified as an Instructor or Operator in the past three years in any other jurisdiction, and specify the jurisdiction(s). DMV will verify whether the person's certification is currently withdrawn in that jurisdiction and if it is grounds for denial or withdrawal of an Oregon Instructor Certificate.

(4) A person who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. Notwithstanding the conviction DMV may issue an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the conviction does not affect the person's fitness to be an Instructor.

(5) A person whose driving privileges have been suspended as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances since the suspension. Notwithstanding the suspended driving privileges, DMV may issue an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the suspension does not affect the person's fitness to be an Instructor.

(6) An applicant who has answered "Yes" to any medical question on the application, or whose driving privileges are can-

celled, suspended or revoked due to a mental or physical condition may include an explanation or evidence regarding the condition. DMV may request additional information from the applicant including, but not limited to, documentation regarding the nature of the condition from a licensed medical practitioner. Notwithstanding the condition, DMV may issue an Instructor Certificate if the person is otherwise qualified and based on the explanation or evidence DMV determines that the condition does not affect the person's fitness to be an Instructor.

(7) The criteria described in this rule apply to a current Instructor Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Instructor fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & 822.530
Stats. Implemented: ORS 822.530
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0080
Issuance of Commercial Driver Training School Instructor Certificate

(1) An applicant must apply for an original or renewal Instructor Certificate pursuant to ORS 822.530 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the Instructor qualifications listed in OAR 735-160-0075;

(c) Pass the knowledge and certification drive test requirement in accordance with OAR 735-160-0100. The drive test is not required if:

(A) The applicant can provide proof that he or she completed the Transportation Safety Division (TSD) approved Foundations course and the TSD approved course of study for behind-the-wheel instructor preparation, including an in-car practicum with beginning drivers;

(B) The applicant is an approved ODOT-TSD Traffic Safety Education Instructor; or

(C) The applicant will only conduct classroom training.

(d) Authorize DMV to obtain the applicant's criminal background information. Criminal background information will only be used to determine the person's qualifications to be an Instructor and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law.

(e) Submit the fee required under ORS 822.700; and

(f) Possess and maintain a current and valid Oregon driver license. If only conducting classroom training, the applicant may possess and maintain a current and valid driver license from another jurisdiction.

(2) An Instructor must submit to DMV a renewal application, supporting documents and payment for an Instructor Certificate no later than the last day of the calendar year. DMV may provide a grace period of 45 days for the application to be processed during which time the existing Instructor Certificate will remain valid. A renewal application that is received after the last day of the calendar year will be treated as an application for an original Instructor Certificate.

(3) DMV will not issue or renew an Instructor Certificate if:

(a) Any of the qualifications or requirements set forth in ORS Chapter 822 and OAR chapter 735, division 160 rules are not met; or

(b) DMV determines information contained in the application is false.

(4) If DMV refuses to issue or renew an Instructor Certificate, DMV will notify the person in writing. The person may request a contested case hearing. The hearing is conducted in accordance with the applicable contested case provisions of the Administrative Procedures Act, ORS 183.310 to 183.500 and is subject to the following:

(a) A request for hearing must be submitted in writing and received by DMV within 20 days of the date the refusal notification is mailed to the person. DMV will not issue an Instructor Certificate pending the outcome of the contested case hearing. If DMV refuses to renew an Instructor Certificate, the expired Instructor Certificate remains valid pending the outcome of the contested case hearing; and

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no Instructor Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and OAR chapter 735, division 160 rules are satisfied.

(5) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of an Instructor Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0005; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0095
Commercial Driver Training School Instructor Responsibilities

(1) An Instructor shall:

(a) Meet and remain in compliance with the Instructor qualifications set forth in OAR 735-160-0075;

(b) Provide student driver training that meets the curriculum requirements set forth in OAR 735-160-0050;

(c) Accurately complete all applicable student driver records required under OAR 735-160-0030;

(d) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;

(e) Comply with all statutes, administrative rules and regulations relating to acting as an Instructor;

(f) Carry the Instructor's card at all times while providing instruction;

(g) Notify DMV by mail or facsimile within 24 hours, excluding state holidays or weekends of any:

(A) Notice of civil legal action filed against the Instructor related to acting as an Instructor; or

(B) A criminal investigation, arrest or conviction for an offense described in OAR 735-160-0075(2)(d); and

(C) If requested, respond to DMV in writing or by facsimile or mail within 10 calendar days (excluding weekends and state holidays) to any complaint received by DMV.

(2) An Instructor shall not:

(a) Falsify or tamper with any records;

(b) Transfer to or allow any other person to use his or her Instructor Certificate or Instructor Card;

(c) Knowingly assist a person in fraudulently obtaining driving privileges from DMV;

(d) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the School. This subsection does not apply to the Instructor's immediate family members;

(e) Allow any student driver to operate a motor vehicle without a valid driver license or instruction permit;

(f) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(g) Provide questions and answers that are identical to a DMV knowledge test during classroom training;

(h) Allow any student driver to participate in classroom instruction or behind-the-wheel instruction if the Instructor has reason to believe the student driver is under the influence of an intoxicant;

(i) Provide classroom instruction or behind-the-wheel instruction if the Instructor is under the influence of an intoxicant; or

(j) Act as an Instructor for behind-the-wheel training without a valid Oregon driver license or provide classroom instruction without a valid driver license.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.525 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0100
Commercial Driver Training School Instructor Testing

(1) The knowledge test required by OAR 735-160-0080 for an applicant will consist of questions about:

(a) The Oregon Vehicle Code;

(b) Safe driving practices;

(c) The operation of motor vehicles;

(d) The methods and requirements for instructing student drivers under OAR 735-160-0050; and

(e) The qualification and responsibilities related to being an Instructor under OAR 735-160-0003 through 735-160-0130.

(2) The certification driving test required by OAR 735-160-0080 examines the applicant's ability to drive consistent with the standards established by ORS 807.070(3) and OAR 735-160-0050.

(3) Each applicant will be given a maximum of three opportunities in one year to pass the knowledge test or the certification drive test in accordance with sections (4) and (5) of this rule.

(4) Applicants, required to pass a certification drive test under OAR 735-160-0080(3), who fail the certification drive test on the first attempt must wait at least seven calendar days before taking a second certification drive test. Individuals who fail the certification drive test on the second attempt must wait 14 calendar days before taking a third certification drive test. Applicants who fail the third certification drive test must wait one year from the date of taking the third certification drive test.

(5) Applicants who fail the knowledge test on the first attempt must wait at least seven calendar days before taking a second knowledge test. Individuals who fail the knowledge test on the second attempt must wait 14 calendar days before taking a third knowledge test. Individuals who fail the third knowledge test must wait one year from the date of taking the third knowledge test.

(6) Applicants must receive a passing score of 85 percent or higher on the written knowledge test described in section (1) of this rule and a passing score of 90 percent or higher on the certification drive test described in section (2) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-052-0015; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0110
Instructor Certificate Issuance, Correction, Surrender, and Replacement

(1) DMV will issue an Instructor Certificate and Instructor's card to an applicant who has met all the requirements of OAR 735-160-0075 through 735-160-0100. The name of the school employing the applicant shall be included on the Instructor Certificate and Instructor's card.

(2) An Instructor Certificate and Instructor's card are not transferable.

(3) An instructor must obtain a corrected Instructor Certificate and Instructor card when:

(a) The name or address of the school currently employing the instructor changes or is incorrect; or

(b) The instructor's name changes or is incorrect.

(4) At the time employment with the school ends, the instructor's original Instructor Certificate and Instructor card must be surrendered to the school. Within 10 calendar days of surrender, the school must return the original Instructor Certificate and Instructor card to DMV.

(5) DMV will issue a replacement Instructor Certificate if the Instructor Certificate or Instructor's card has been lost, mutilated or destroyed.

(6) To apply for replacement or correction of an Instructor Certificate or Instructor's card, the instructor must:

(a) Submit a written request to DMV; and

(b) Clearly explain the reason for the request.

Stat. Auth.: ORS 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV. 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-8; Administrative Renumbering 3-1988, Renumbered from 735-052-0110; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05

735-160-0115
Commercial Driver Training School and Instructor Sanctions

(1) DMV will impose sanctions when it determines a School or an Instructor has violated provisions of the Oregon Vehicle Code, or administrative rules promulgated by DMV relating to:

(a) Operating a Commercial Driver Training School; or

(b) Acting as a Commercial Driver Training School Instructor.

(2) DMV will impose a sanction appropriate for the particular violation. In determining an appropriate sanction, DMV may use the matrix outlined in OAR 735-160-0125 as a guideline and may consider the following criteria:

(a) The severity of the violation or its impact on the safety of the public;

(b) The number of similar or related violations;

(c) Whether the violations were willful or intentional; and

(d) The history of prior sanctions imposed by DMV.

(3) DMV will impose sanctions when it determines violations have occurred or are occurring. These may include one or more of the following:

(a) A written warning, including correction notices;

(b) Suspension of the School Certificate and suspension of the right to apply for or renew a School Certificate for up to one year;

(c) Suspension of the Instructor Certificate and suspension of the right to apply for or renew an Instructor Certificate for up to one year;

(d) Revocation of the School Certificate and revocation of the right to apply for or renew a School Certificate for up to five years;

(e) Revocation of the Instructor Certificate and revocation of the right to apply for or renew an Instructor Certificate for up to five years.

(4) DMV may cancel, suspend or revoke a School Certificate or an Instructor Certificate if the School, the Operator or the Instructor fails to maintain the eligibility requirements under ORS 822.500 to 822.535 and these OAR division 160 rules.

(5) An Operator or Instructor whose certificate has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) When DMV takes action to suspend, revoke or cancel a School Certificate DMV will send notice to the Operator listed on the School Certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School's most current address on record with DMV.

(7) When DMV takes action to suspend, revoke or cancel an Instructor Certificate DMV will send notice to the Instructor listed on the Instructor Certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School listed as the Instructor's current employer. DMV will use the School's most current address on record with DMV.

(8) Except as provided for in section (9) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation will not go into effect pending the outcome of the hearing, unless the School Certificate is immediately suspended or cancelled.

(9) If the School Certificate is immediately suspended or cancelled as set forth in OAR 735-160-0125, the request for hearing must be submitted in writing to, and received by, DMV within 90 days of the date of the notice of suspension. The suspension or cancellation will remain in effect pending the outcome of the hearing.

(10) Except as provided in OAR 137-003-0528, when no request for a hearing is received by the deadline, the Operator or Instructor has waived the right to a hearing, DMV's file constitutes the record of the case, and a default order will be issued by DMV.

(11) If a School Certificate or Instructor Certificate is revoked, the Operator or Instructor may reapply for an original certificate after a period of revocation of five years and must meet all the qualifications and requirements for the certificate.

(12) If the School Certificate or Instructor Certificate is cancelled, the Operator or Instructor may reapply for an original certificate when they have met all of the requirements for a certificate and fees are paid in accordance with ORS 822.700.

(13) At the end of a suspension period, DMV will reinstate the School Certificate or Instructor Certificate unless the certificate has expired, or the Operator or Instructor does not comply with the reinstatement requirements or meet the qualification requirements for the certificate. If the certificate is suspended and has been expired for more than one year, the Operator or Instructor must reapply for an original certificate, comply with the reinstatement requirements, meet all the qualifications and requirements for a new School Certificate or Instructor Certificate, and pay fees in accordance with ORS 822.700.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stat. Implemented: ORS 822.515
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 14-2007, f. & cert. ef. 12-24-07; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0125
Sanctions

DMV adopts the following matrix of sanctions for School Operator and Instructor violations. As used in this rule, an offense will be considered a second or subsequent offense if it occurred within three years from the date the Operator or Instructor was notified in writing of the occurrence of the same or a substantially similar offense in this or another jurisdiction. DMV will not sanction as a second or third/subsequent offense if more than three years have passed from the date of the previous violation for the same or similar offense. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 814.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.515 - 822.530
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert.ef. 9-24-13

735-160-0130
Code of Ethics and Rules of Conduct

(1) Each Operator and each Instructor accepts the responsibilities and requirements of the driver training profession. Each Operator and Instructor must adhere to the highest ethical standards of professional conduct.

(2) To fulfill their obligations to the public and to DMV, the Operator and Instructor must:

(a) Recognize that the instruction and training of student drivers is a position of trust;

(b) Exhibit competence and wisdom in conducting professional responsibilities;

(c) Uphold and obey the law, including but not limited to the provisions of the Oregon Vehicle Code; and

(d) Maintain and uphold the highest educational standards possible for instructing and training student drivers.

(3) Rules of Conduct. An Operator and Instructor will not engage in or knowingly allow any owner, officer, agent, director, manager, or employee of a School to engage in any of the following:

(a) Assist or knowingly allow a student driver to fraudulently obtain driving privileges for which the student driver is ineligible or has not qualified;

(b) Discriminate against a student driver because of race, religion, national origin, disability, age, sex, or sexual orientation;

(c) Have sexual contact with, or request sexual contact from, a student driver. For purposes of this section, "sexual contact" means:

(A) Sexual intercourse; or

(B) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party;

(d) Make sexual advances either verbally or physically or request sexual contact from any student driver, whether directly, indirectly or by innuendo;

(e) Use physical force or a threat of physical force against a student driver, unless such force or threat is necessary to avoid immediate danger to the safety of the student driver, the Operator or Instructor, employees of the School, passengers in a vehicle being used for behind-the-wheel instruction, or the general public;

(f) Possess or use any unlawful controlled substance or intoxicating beverage, or be under the influence of any intoxicating beverages, drugs or controlled substances while training or instruction is being provided to student drivers;

(g) Falsify any document or make a misrepresentation on the application for a School or Instructor Certificate;

(h) Refer any student driver to a particular DMV-certified third-party tester or examiner for DMV testing purposes; or

(i) If also certified as a DMV third party tester or examiner, test an applicant for driving privileges if the applicant was enrolled as a student driver at the School, unless otherwise authorized.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert.ef. 9-24-13

DIVISION 162

SNOWMOBILES INSTRUCTORS/OPERATORS

735-162-0000
Qualifications

Any person who does not have an operator's license issued under ORS Chapter 807 may be issued a certificate to operate a snowmobile if they have taken a Snowmobile Safety Education Course that has been approved by the Driver and Motor Vehicle Services Division of the Department of Transportation.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0010

735-162-0010
Certification Application

Each applicant for a certificate to operate a snowmobile who has completed the Snowmobile Safety Education Course must make application on a form provided by the Driver and Motor Vehicle Services Division of the Department of Transportation.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0015

735-162-0020
Course Content

(1) The Snowmobile Safety Education Course shall consist of safety education including, but not limited to, snowmobile controls and safety equipment, proper clothing, safe operating procedures, snowmobile laws, and general information.

(2) Prior to issuance of an operator's certificate, the applicant must:

(a) Complete the Snowmobile Safety Education Course; and

(b) Receive a qualifying score of 70 percent or above.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0020

735-162-0030
Certification

The instructor shall forward to the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) the enrollment forms provided by DMV, listing each person who received and successfully completed the Safety Education Course. A certification card will be issued by DMV to each person listed on the enrollment forms. If a certification card is lost, stolen, mutilated, or destroyed, a duplicate certification card may be obtained upon application to DMV by the person to whom the certification card was issued.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; MV 8-1983, f. 10-5-83, ef. 10-15-83; Administrative Renumbering 3-1988, Renumbered from 735-061-0025

735-162-0040
License Application

Each applicant for certification as an instructor of the Snowmobile Safety Education Course shall make application on a form provided by the Driver and Motor Vehicle Services Division of the Department of Transportation.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0035

735-162-0050
Requirements

To be certified as a Snowmobile Safety Education Course instructor, the applicant must:

(1) Be at least 21 years of age;

(2) Have a high school education or the equivalent;

(3) Have been recommended by a local snowmobile club or knowledgeable person from the snowmobile industry or the snowmobile association;

(4) Have a valid Oregon driver's license; and

(5) Have not been convicted of a felony or misdemeanor involving fraud, dishonesty, or moral turpitude as defined under Oregon Statutes during the three years prior to the date of application.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0040

735-162-0060
Testing

An applicant for an instructor's certification will be required to pass a written examination and vision test given by an authorized representative of the Driver and Motor Vehicle Services Division of the Department of Transportation. The written examination will consist of questions relating to:

(1) Snowmobile laws and regulations;

(2) Maintenance and operation of snowmobiles; and

(3) Snowmobile safety.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0045

735-162-0070
Certification

(1) An instructor's certificate will be issued provided the applicant:

(a) Has met the requirements as outlined in OAR 735-162-0050;

(b) Has passed the written examination as required by OAR 735-162-0060 with a score of at least 90 percent; and

(c) Has passed the vision test conducted by the Driver and Motor Vehicle Services Division of the Department of Transportation as required by OAR 735-162-0060.

(2) Failure to ensure that the requirements, as outlined in OAR 735-162-0020, 735-162-0030, 735-162-0050, and 735-162-0060 are met and maintained will be cause for revoking the instructor's certificate under the provisions of ORS Chapter 183.

Stat. Auth.: ORS 802.010, 821.150, 821.160 & 821.190
Stats. Implemented: ORS 821.160
Hist.: MV 46, f. 9-10-71, ef. 10-1-71; MV 8-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-061-0050; MV 8-1983, f. 10-5-83, ef. 10-15-83

DIVISION 164

SNOWMOBILE TITLE/REGISTRATION

735-164-0000
Snowmobile Fees Relating to Registration

Pursuant to ORS 821.080, snowmobile registration is administered in the same manner and has the same effect as the registration of vehicles under ORS Chapter 803. In addition to the fees established for snowmobile registration and registration renewal under 821.320 and consistent with 803.575, the following issuance fees apply:

(1) $5 for a duplicate or replacement registration card.

(2) $5 for a replacement registration decal issued at the time of registration or $10 for a replacement at any other time.

(3) $10 for replacement registration stickers.

(4) $5 for a replacement registration decal and replacement registration stickers when issued together at registration renewal, or $10 when issued together at any other time.

(5) The fees paid under sections (2), (3) and (4) of this rule include the cost of any duplicate or replacement registration card issued.

Stat. Auth.: ORS 184. 616, 184.612, 802.010 & 821.080
Stats. Implemented: ORS 821.080 & 803.575
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0060; DMV 7-2013, f. & cert. ef. 5-23-13

735-164-0010
Snowmobiles — Title and Registration Requirements

Unless otherwise exempt, snowmobiles are subject to DMV statutes and rules relating to title and registration. This includes:

(1) For title, ORS 803.010 through 803.230, except odometer disclosure requirements as provided in OAR 735-028-0010;

(2) For registration, ORS 803.300 through 803.455, except an odometer disclosure under 803.370(3);

(3) For registration cards, ORS 803.500 through 803.510, except the mileage of the vehicle under 803.500(5);

(4) For registration stickers, ORS 803.555 through 803.560;

(5) For registration fees and the disposition of plates, replacement and refunds, ORS 803.585, 803.575 and 803.590; and

(6) For temporary registration permits, ORS 803.615, 803.625 and 803.640.

Stat. Auth.: ORS 802.010, 803.030, 803.035, 803.305, 803.310, 821.060 & 821.080
Stats. Implemented: ORS 821.060 & 821.080
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0070; DMV 7-2013, f. & cert. ef. 5-23-13

735-164-0020
Placement of Snowmobile Registration Decal

Registration numbers assigned to snowmobiles are issued by DMV in the form of a registration decal. Snowmobile registration decals must be affixed on the left side of the snowmobile in an area that is visible during operation.

Stat. Auth.: ORS 184. 616, 184.619, 802.010 & 821.080
Stats. Implemented: ORS 821.080
Hist.: MV 7-1985, f. 6-14-85, ef. 6-16-85; Administrative Renumbering 3-1988, Renumbered from 735-071-0092; DMV 7-2013, f. & cert. ef. 5-23-13

DIVISION 170

FUEL LICENSES AND RECORDS

735-170-0000
Definitions

(1) "Best Available Information" means any data or information that can be used to determine tax due including calculated projections or averages based on prior reports or data from other sources as determined by the Department.

(2) "Bill of Lading" means a document issued by the terminal operator that lists goods being shipped and specifies the terms of their transport.

(3) "Delivery Tag" means the delivery receipt or other record of a delivery.

(4) "Electronic signature" shall have the same meaning and requirements as defined in ORS 84.004(8).

(5) "Ethanol Blended Gasoline" means ethanol has been blended with gasoline and is intended for use in a motor vehicle. This product is defined as motor vehicle fuel and is a taxable product.

(6) To "Export" means to have ownership title to motor vehicle fuel or aircraft fuel from locations within Oregon, at the time it is delivered to locations outside Oregon by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling motor vehicle or aircraft except as provided in ORS 319.330.

(7) "Cause to be Exported" means to have ownership title to motor vehicle fuel or aircraft fuel, at your order, request or solicitation, at the time it is exported from the State of Oregon by any means of transport, other than motor vehicle fuel exported from Oregon in the fuel tank of a motor vehicle used for the propulsion of the motor vehicle.

(8) "Ex-Tax" means that the tax is not included in the price of the fuel.

(9) "Failure to Report" means any tax report and payment not received by the Department on or before the due date of the next subsequent report.

(10) To "Import" means to have ownership title to motor vehicle fuel or aircraft fuel from locations outside of Oregon, at the time it is brought into the State of Oregon by any means of transport, other than motor vehicle fuel brought into Oregon in the fuel tank of a motor vehicle used for the propulsion of the motor vehicle.

(11) "Cause to be Imported" means to have ownership title to motor vehicle fuel or aircraft fuel, at your order, request or solicitation, at the time it is brought into the State of Oregon by any means of transport, other than motor vehicle fuel brought into Oregon in the fuel tank of a motor vehicle used for the propulsion of the motor vehicle.

(12) "Invoice" means the receipt or other record of a sale transaction that describes an itemized list of goods shipped specifying the price and terms of sale as defined in OAR 735-170-0010.

(13) "ODOT Fuels Tax Group" or "Department" means the organizational unit within the Oregon Department of Transportation or its agent that is primarily charged with the administration of ORS 319.010 through 319.880 on behalf of the State of Oregon.

(14) "Performing the Acts of a Dealer" means that the dealer is conducting business in Oregon as defined in ORS 319.010(6).

(15) "Properly Licensed" means that the person or entity "performing the acts of a dealer" is legally licensed under the "true name" and legally authorized to conduct business in Oregon per Oregon law.

(16) "Registered Fuel Handler" includes but is not limited to fuel transporters, biodiesel producers, ethanol producers, and terminal operators who handle fuel products. It does not include dealers in Motor Vehicle Fuel or Use Fuel Sellers licensed by the state of Oregon.

(17) "Terminal Position Holder" means a dealer who owns terminal storage inventory in Oregon.

(18) "True Name" means the name that is authorized per Oregon law to conduct business in Oregon.

Stat. Auth.: ORS 184.616, 184.619 & 319.010 - 319.880
Stats. Implemented: ORS 319.010 - 319.430
Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0005; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0010
Records Required

The Department has the authority to prescribe required records under ORS 319.390 and 319.400. Every Oregon dealer, whether licensed or unlicensed, must maintain and keep the following records for at least three years from the date the fuel tax is due:

(1) Stock summary showing monthly totals for the gallons of motor vehicle fuel or aircraft fuel handled for each owned and operated distributing location within the State of Oregon with an analysis as to inventories, receipts, sales, use, transfers, and loss or gain.

(a) An actual physical gallon inventory measurement of motor vehicle fuel and aircraft fuel stocks for each owned and operated distributing location must be taken at the end of each calendar month and preserved for audit purposes.

(b) A record showing all sales and withdrawals of motor vehicle fuel or aircraft fuel from storage. A dealer that withdraws fuel from storage for highway and non-highway use must:

(A) Summarize records into monthly totals and separately show the number of gallons used for highway and non-highway purposes;

(B) Separately show the total number of miles traveled and fuel used for each vehicle;

(C) Separately account for fuel withdrawn from bulk storage and fuel received from other sources;

(2) Purchase journal showing the number of gallons of motor vehicle fuel or aircraft fuel purchased or received each month supported by purchase invoices or other documents.

(3) Sales journal showing the number of gallons of motor vehicle fuel or aircraft fuel sold or distributed each month, supported by sales invoices covering each sale or delivery.

(4) Sales invoice forms must be approved by the Department and must include at least the following information:

(a) Date of sale or delivery;

(b) Point of origin;

(c) Name of dealer making the sale or delivery;

(d) All invoices must separately state and describe to the satisfaction of the Department the various products shipped and must be serially numbered except where other sales invoice controls acceptable to the Department are maintained;

(e) Name and address of the purchaser, and place and state where the delivery was actually made. Other sales/delivery documents showing physical address must be retained for audit and provided upon request by the Department.

(f) The gallons of motor vehicle fuel or aircraft fuel sold.

(5) All required records must be summarized into calendar month totals and must be centralized in the accounting office where the periodic tax audit is to be made.

(6) The Department may determine, at its sole discretion, when the auditor for the state must travel outside the State of Oregon to examine the dealer's records. At any time such travel is determined necessary the dealer must reimburse the state for all travel expenses incurred, including transportation, meals and lodging costs.

(7) The Department has the authority to investigate, examine and audit licensed or unlicensed dealers, carriers, brokers, service stations, and other persons who are storing, selling, or distributing motor vehicle fuels or other petroleum products in Oregon. Such investigations, examinations and audits will occur during normal business hours;

(8) Documentation in the following areas must be made readily available to the Department upon request by the Department by the date prescribed by the Department;

(a) Accounts;

(b) Records;
(c) Stocks;
(d) Facilities;
(e) Equipment;
(f) Shipping;

(9) Dealers who fail to make records available for inspection are subject to assessment based on "best available information," collection action, and possible license suspension and revocation.

(10) Dealers that handle use fuel under ORS 319.860 have the same record keeping requirements under 735-176-0110.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.370, 319.380, 319.390, 319.400
Hist.: MV 22, f. 2-15-63; Administrative Renumbering 3-1988, Renumbered from 735-011-0055; MV 7-1988, f. & cert. ef. 2-29-88; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 15-2010, f. 8-27-10, cert. ef. 1-1-11; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0015
Records Required for Registered Fuel Handlers

Except as otherwise provided in this rule, all fuel handlers, registered and unregistered, including but not limited to Bulk Distributors, Biodiesel Producers, Ethanol Producers, Terminal Operators, and Petroleum Products Carriers, must maintain and keep the following records for at least three years:

(1) Stock summary showing monthly totals for the gallons of fuel sold, stored, handled, or produced for each fuel type. Records are to be maintained for each operated distributing location within the State of Oregon with an analysis as to inventories, receipts, sales, production, transport, use, transfers, and loss or gain.

(a) An actual physical gallon inventory measurement of each fuel type for each owned and operated location must be taken at the end of each calendar month and preserved for audit purposes.

(b) Transport companies who do not store or produce fuel are not required to maintain month-end inventories of fuel placed in trucks for delivery.

(c) A record showing all sales and withdrawals of fuel, by fuel type.

(2) Purchase journal showing the number of gallons of fuel purchased or received each month supported by purchase invoices or other documents.

(3) Sales journal showing the number of gallons of fuel sold or distributed each month, supported by sales invoices covering each sale or delivery.

(4) Sales invoice forms must include at least the following information:

(a) Date of sale or delivery;
(b) Point of origin;
(c) Name of registrant making the sale or delivery;
(d) All invoices must separately state and describe the various products shipped;
(e) The gallons of fuel sold or transported;
(f) The invoice must clearly show the place and state where the delivery was actually made. Physical delivery address must be kept for audit purposes.

(5) All required records must be summarized into calendar month totals and must be centralized in the accounting office where the periodic records review is to be conducted. To comply with this rule, all for hire carriers as defined in ORS 825.005(7), must maintain all records required in the normal course of their operations including but not limited to those records required by Oregon Administrative Rules, Chapter 740, Division 55.

(6) The Department has the authority to investigate, examine and audit fuel handlers, dealers, carriers, brokers, service stations, and other persons who are storing, selling, or distributing motor vehicle fuels or other petroleum products in Oregon. Such investigations, examinations, and audits will occur during normal business hours;

(7) Documentation of the fuel handled, received, produced, stored, sold, and transported must be made readily available to the Department upon request by the Department by the date prescribed by the Department;

(8) Fuel handlers, whether registered or unregistered, who fail to make records available for inspection are subject to assessment based on "best available information," and possible collection action.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.370, 319.380, 319.390, 319.400
Hist.: DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0020
Required Tax Report Forms and Report Preparation

(1) Every licensed dealer must prepare a tax report that completely summarizes the number of gallons of motor vehicle fuel or aircraft fuel sold, distributed, or used in the State of Oregon each month with required schedules and detail to fully explain the various entries.

(2) A schedule must be prepared identifying the gallons sold and tax due in each taxing jurisdiction administered by the Department on forms provided by the Department.

(3) Every licensed dealer must follow motor vehicle fuel tax reporting instructions and use prepared forms as provided by the Department. Willful or habitual failure to complete tax reports in the manner prescribed by the Department may result in assessment based on "best available information," collection action, and possible license suspension and revocation.

(4) "To report" or "be reported" means a complete report, with all required schedules on forms prescribed by the Department and full remittance of tax, must be received by the Department or its designated agent not later than the 25th of the succeeding calendar month.

(a) All reports and required schedules with 100 or more transactions shall be filed electronically in a manner prescribed by the Department. Once a licensee or registrant is required to file their reports electronically, all subsequent reports shall be filed electronically regardless of the number of transactions.

(b) Computerized report data may be substituted for schedule detail when the dealer has less than 100 transactions and the format is compatible with the prescribed forms.

(c) If an electronic transaction requires the payment of taxes or fees, payment of those taxes or fees within the electronic transaction shall be:

(A) Made through an Automated Clearing House (ACH) debit or credit transaction;
(B) Made in US funds.

(5) Every person (as defined by ORS 319.010(13)) producing, manufacturing, importing, distributing, and blending use fuel must report Use Fuel Handled on Schedule 735-1305D not later than the 25th day of each calendar month for use fuel handled during the preceding calendar month.

(a) Schedule 735-1305D and supporting documents may be sent with other required materials or sent via email to the department not later than the 25th day of each calendar month.

(b) Use fuel tax will not be assessed on use fuel handled and reported on Schedule 735-1305D, nor is a person who produces, manufactures, imports, distributes and blends use fuel required to be registered with the department as a use fuel licensee, unless such person also meets the definition of a user or seller as defined by 735-176-0100(3), 735-176-0150 and ORS 319.520(13).

(c) Licensed dealers that are also licensed as use fuel sellers (as defined by ORS 319.520(9)) and who report use fuel handled on use fuel seller reports by submitting those reports in accordance with the applicable statutes and rules, are not required to complete form 735-1305D.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.010 - 319.430, 319.990
Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0105; MV 7-1988, f. & cert. ef. 2-29-88; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 15-2010, f. 8-27-10, cert. ef. 1-1-11; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0035

Reporting Requirements for Registered Fuel Handlers

(1) All registered handlers will file a monthly report detailing the fuel handled, sold, produced, distributed, transported, or used during the month. For hire carriers, as defined in ORS 825.005(7), and other common carriers, that only transport fuel for dealers or registered fuel handlers are not required to submit reports, but are subject to the record keeping requirements in OAR 735-170-0015.

(2) Every registrant must follow the applicable fuel reporting instructions and use forms as provided by the Department. Willful or habitual failure to complete tax reports in the manner prescribed by the Department may result in assessment based on "best available information," collection action, and possible suspension o r revocation.

(3) "To report" or "be reported" means a complete report, with all required schedules on forms prescribed by the Department and full remittance of tax or fee, must be received by the Department or its designated agent not later than the 25th of the succeeding calendar month.

(a) All reports and required schedules with 100 or more transactions shall be filed electronically in a manner prescribed by the Department. Once a licensee or registrant is required to file their reports electronically, all subsequent reports shall be filed electronically regardless of the number of transactions.

(b) Computerized report data may be substituted for schedule detail when the fuel handler has less than 100 transactions and the format is compatible with the prescribed forms.

(c) If an electronic transaction requires the payment of taxes or fees, payment of those taxes or fees within the electronic transaction shall be:

(A) Made through an Automated Clearing House (ACH) debit or credit transaction;

(B) Made in US funds.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990

Stats. Implemented: ORS 319.010 - 319.430, 319.990

Hist.: DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0040

Tax Report Filing Dates

(1) A licensed dealer or registered fuel handler must complete a monthly tax report with full payment of taxes which must be received by the Department not later than the 25th of the succeeding calendar month.

(a) "Received" is the date the report is physically received by the Department or its designated agent.

(b) When the due date falls on a Saturday, a Sunday, or any recognized state or federal holiday, the report and payment must be received by the Department or its designated agent on or before the next business day.

(2) Tax reports and payments not received by the Department in a timely fashion will be considered late and subject to interest and penalty as described in ORS 319.180. Any tax report and payment not received by the due date of the subsequent report constitutes a "failure to report" and is subject to an additional 10% penalty as described in ORS 319.200.

(3) If the report and payment are not received on or before the 25th day of the month a penalty will be assessed pursuant to ORS 319.180 or, if the Department determines that no tax is due, a penalty of $25 will be assessed.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990

Stats. Implemented: ORS 319.020, 319.180, 319.190, 319.200

Hist.: MV 22, f. 2-15-63; MV 48, f. 10-5-72, ef. 10-15-72; MV 53, f. 2-20-74, ef. 3-11-74; MV 1-1980(Temp), f. & ef. 1-21-80; MV 6-1980, f. & ef. 4-18-80; MV 11-1982, f. 4-30-82, ef. 5-1-82; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0115; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0045

Motor Vehicle Fuel Tax Waiver of Late Payment Penalties

(1) If a dealer or registrant disagrees with an action of the Department, they may request reassessment of the determination in writing within 30 days of the date of the notice. Notice types which may be reconsidered include:

(a) Denial or suspension of license.

(b) Adjustments to motor vehicle fuel dealer tax reports.

(c) Assessment of tax based on available information.

(2) If the Department and the dealer or registrant are not able to resolve the issue through the internal review process, the dealer or registrant may request a contested case hearing under the provisions of ORS Chapter 183. The dealer or registrant must request the hearing in writing before the Notice of Assessment becomes final.

(3) ORS 319.090(2) and 319.180(4) allow the Department to waive certain penalties.

(4) Any entity or a person may submit a written request for waiver of penalty to the Department.

(5) The penalty under ORS 319.090 and 319.180 may be waived if the taxpayer shows reasonable cause.

(a) A taxpayer who wishes to apply for waiver of the penalty must make an affirmative showing of all facts alleged as a reasonable cause. The written statement must contain a declaration that it is made under penalty of perjury. The statement should be filed with the report or filed with the Department as soon as possible thereafter.

(b) Circumstances that may constitute reasonable cause include, but are not limited to the following:

(A) War, riot, rebellion, acts of God or other disaster; or

(B) Acts or omissions by a third party which were beyond the control of the person; or

(C) The person in good faith took all steps and precautions reasonably necessary to comply with the statute; and

(D) Any other criteria the Department may find to be informative and appropriate.

(6) For purposes of determining the amount of motor vehicle fuel sold, distributed or used where a dealer fails to report as described in ORS 319.200, "best available information" is defined in OAR 735-170-0000.

(7) Penalties described in ORS 319.190 will not be waived. Penalties described in 319.200 are cumulative to penalties described in 319.090, 319.180 and 319.190 and will not be waived.

(8) The following reasons are not acceptable for granting a penalty waiver:

(a) Employee incompetence or inexperience;

(b) Employee turnover;

(c) Misunderstanding or ignorance of law;

(d) Computer failure or error that is not the result of a natural disaster;

(e) Changeover to new accounting processes, software or upgrades;

(f) Change in company operations;

(g) Errors or reliance on the part of third party suppliers or customers.

(9) Penalties for amended reports and audit adjustments will be applied in accordance with applicable statutes. At the discretion of the Department the following criteria may be used to determine waiver of penalty:

(a) Accuracy of previous audits and payment history;

(b) Accuracy of current reports based on Departmental review;

(c) Compliance with previous audit recommendations;

(d) Cooperation in providing requested records in a timely manner;

(e) Any other criteria the Department may find to be informative and appropriate.

(10) A taxpayer filing tax reports through the Department's electronic system will not be charged penalty or interest if:

(a) The licensee attempts to submit a timely filed tax report

(b) The Department's electronic filing system is not available to receive the transmission

(c) The licensee immediately notifies the Department that the electronic filing system is not available to receive their transmission.

(d) The licensee submits the tax report and remits the balance due on the first business day the system is available to receive the transmission.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990

Stats. Implemented: ORS 319.090, 319.180, 319.200

Hist.: MV 37-1987, f. 12-7-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0745; Renumbered from 735-174-0050 by DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0050

Transactions Which May Be Classed as Export Sales

Transactions that may be classified as export sales consist of:

(1) Motor vehicle fuel and aircraft fuel delivered by an Oregon licensed dealer to a destination outside the state of Oregon where the recipient is licensed in the destination state, country or territory and takes legal title of the fuel is considered an export sale.

(2) Motor vehicle and aircraft fuel leaving Oregon in the fuel tank of a motor vehicle or aircraft used only for the propulsion of the vehicle or aircraft is not an export, except as provided in ORS 319.330.

(3) The export certificate as described in ORS 319.240 is waived.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990

Stats. Implemented: ORS 319.240

Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0205; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-170-0090
Exemption Certificates

(1) Every licensed dealer making sales or deliveries to the Armed Forces of the United States for which tax exemption is claimed, must complete an Exemption Certificate Form as prescribed by the Department.

(2) In order to obtain exemption from the tax, the Exemption Certificate must be completed and signed at the time of sale and delivery. Whenever the vendor is other than an Oregon licensed dealer, the Exemption Certificate may be turned over to a dealer for credit and for inclusion with the dealer's monthly tax report. All Exemption Certificates must be kept on file in the dealer's office where the tax audit is to be made.

(3) All claims for tax exemption must be entered on the tax report as prescribed in the current motor vehicle fuel tax reporting instructions as provided by the Department.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.250
Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0255; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-170-0100
Fuel Lost or Destroyed — Tax Exemption Requirements

The following requirements are for claims by Oregon licensed dealers for exemption from the Oregon tax on motor vehicle fuel or aircraft fuel lost or destroyed through transportation and other mishaps prior to the time title to the product passes from the licensed dealer:

(1) Motor vehicle fuel or aircraft fuel lost by a carrier or other person in this state must be included in the taxable distribution section of the monthly tax report. When a carrier or person responsible for lost motor vehicle or aircraft fuel furnishes acceptable documentation of actual loss, credit for the Oregon tax may be taken. Acceptable documentation of the loss, as described in section (2) of this rule, must be submitted to the Department for approval. After approval by the Department, the documents must be filed with the accounting records in the dealer's office where the tax audit is to be made. Credits for approved losses must be reported as prescribed by the Department.

(2) Acceptable documentary proof of loss will include the following:

(a) A signed statement by the driver of the vehicle, or some person having actual knowledge of the loss, stating:

(A) The circumstances surrounding the accident or mishap;

(B) The total quantity of fuel shipped;

(C) The quantity of fuel actually lost or destroyed;

(D) The quantity of fuel salvaged;

(E) The disposition of the salvaged fuel; and

(F) The procedure used in the determination of the exact quantity of fuel lost or destroyed.

(b) A certified copy of the carrier's settlement of claim against the insurance company, if the loss is occasioned by a for-hire or other insured carrier. The details required by subsection (2)(a) of this rule must be supplied; or

(c) A signed statement by a State Police officer or other person witnessing the accident or mishap, that:

(A) Sets out the details of the accident; and

(B) States the quantity of fuel actually lost as nearly as can be determined by the officer or other person. The details required by subsection (2)(a) of this rule must be supplied.

(3) Losses that occur through accident or mishap to the dealer's own equipment must be supported by a signed statement made by the driver of the vehicle or person directly in charge of the equipment at the time of the accident. The statement must include the details required by subsection (2)(a) of this rule. This statement must be filed in the dealer's office where the tax audit is to be made.

(4) A tax exemption cannot be allowed when motor vehicle fuel is lost under the following conditions:

(a) Fuel lost from storage tanks that are directly connected by means of a pipe line to retail service station pumps, or fuel that the licensed dealer no longer retains complete control over; or

(b) Fuel claimed to have been lost from spillage, leaky valves, loose connections, unloading mishaps, leaky or defective storage tanks, or similar circumstances, where the nature of the loss is such that it cannot be positively established that an actual loss did occur and the exact quantity cannot be determined.

(5) In all cases where employers, agents, carriers, or other persons fail to account satisfactorily or completely for motor vehicle fuel and are charged by the dealer with the value of the product, such transactions must be included in the computation of the license tax.

Stat. Auth.: ORS ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.010, 319.020
Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0300; DMV 18-2003, f. 12-12-03 cert. ef. 1-1-04; DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09

735-170-0105
Performance Bond Requirements

(1) Licensed dealers are required to maintain a bond amount that is twice the estimated monthly licensed tax. Twice the dealer's estimated monthly license tax as determined by the Department is computed as follows:

(a) Prior to becoming licensed the required bond amount will be twice the estimated tax based on the estimated taxable gallons stated on the motor vehicle fuel dealer license application;

(b) The Department will periodically review the bond for sufficiency based on an average of the gallons reported by the dealer on its monthly fuel tax reports;

(c) The Department may notify the dealer at any time to increase or decrease the bond. The dealer may at any time request a bond determination from the Department.

(2) When twice the dealer's estimated monthly tax is less than $1,000 the minimum bond required is $1,000.

(3) If the dealer's motor vehicle fuel dealer license was issued on or before October 23, 1999 and twice the dealer's estimated monthly tax is more than $100,000 the maximum bond is $100,000.

(4) If the dealer's motor vehicle fuel dealer license was issued after October 23, 1999 and twice the dealer's estimated monthly license tax is more than $250,000, the maximum bond is $250,000.

(5) A bond is subject to increase under certain conditions up to a maximum amount of $1 million.

(a) After a bond has been increased for a period of 24 months, a dealer may submit a written request for reduction of the bond.

(b) If the Department determines that conditions for bond reduction have been met, the bond may be reduced to twice the dealer's estimated monthly tax or a maximum of $250,000 regardless of when the motor vehicle fuel dealer license was issued.

Stat. Auth.: ORS 184.616, 184.619, 319.010 - 319.430, 319.990
Stats. Implemented: ORS 319.050 - 319.080
Hist.: DMV 10-2009, f. 5-22-09, cert. ef. 7-1-09; DMV 13-2014, f. 11-25-14, cert. ef. 7-1-15

735-170-0110
Evidence Demonstrating that a Dealer did not Intend to Avoid Paying Taxes for Purposes of Determining the Bond Amount

(1) The following factors will be taken into consideration for the purposes of determining whether the dealer did not intend to avoid payment of license taxes:

(a) Error on the part of the dealer's financial institution where the dealer can show that such error was not attributable to the dealer;

(b) An Act of God or natural disaster, i.e., earthquake, flood, fire, severe weather conditions;

(c) An act of war or terrorism;

(d) Incapacitation of key personnel responsible for reporting and remitting taxes; or

(e) Other evidence or explanations presented by the dealer demonstrating to the satisfaction of the Department that the