

Chapter 735 Department of Transportation, Driver and Motor Vehicle Services

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DIVISION 150

VEHICLE DEALERS

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DIVISION 152

WRECKERS

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DIVISION 154

TOWING BUSINESSES

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DIVISION 158

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DIVISION 160

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DIVISION 162

SNOWMOBILES INSTRUCTORS/OPERATORS

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DIVISION 164

SNOWMOBILE TITLE/REGISTRATION

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DIVISION 168

ALL-TERRAIN VEHICLE TITLE/REGISTRATION

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735-168-0030	Class I ATV Fees Relating to Registration
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DIVISION 170

FUEL LICENSES AND RECORDS

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735-170-0020	Tax Report Forms
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Exports

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735-170-0080	Sales to the Armed Forces of the United States — Tax Exempt Under Certain Conditions
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Fuel Lost or Destroyed

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DIVISION 174

FUEL TAX REFUNDS AND PENALTIES

735-174-0000	General Provisions for Fuels Tax Refunds
735-174-0010	Tax Refunds on the Use of Gasoline and Other Motor Vehicle Fuels
735-174-0020	Records and Invoice Requirements
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- 735-174-0050** Motor Vehicle Fuel Tax Waiver of Late Payment Penalties
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DIVISION 176

USE FUEL TAX

Taxing the Use of Combustible Gas, Liquid, or Material Except Motor Vehicle Fuel (Gasoline)

- 735-176-0000** Definitions
735-176-0010 Use Fuel Seller Requirements
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735-176-0030 Use Fuel Tax Waiver of Late Payment Penalties
735-176-0040 Use Fuel Tax Credit of Interest on Tax Overpayments

DIVISION 1

PROCEDURAL RULES

735-001-0020

Issuance of Final Orders in Contested Cases

Hearings officers shall issue final orders in all hearings before the Driver and Motor Vehicle Services Branch of the Department of Transportation.

Stat. Auth.: ORS 802.010 & ORS 813.410

Stats. Implemented ORS 183.470

Hist.: MV 11-1984, f. & ef. 8-31-84; March 1988, Renumbered from 735-001-0010

735-001-0030

References to Motor Vehicle Laws and Administrative Rules in DMV Documents

(1) The motor vehicle laws of the Oregon Revised Statutes were rewritten and renumbered by Chapter 338, Oregon Laws 1983 (HB 2031). This rewrite was further amended by Chapter 16, Oregon Laws 1985 (SB 100).

(2) Any reference to an Oregon Revised Statute repealed by Section 978, Chapter 338, Oregon Laws 1983 and Section 475, Chapter 16, Oregon Laws 1985 in any Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) document is a reference to the corresponding section in the current ORS Chapters 801 through 823. These documents include but are not limited to:

- (a) Administrative rules;
- (b) Regulations;
- (c) Ordinances;
- (d) Orders;
- (e) Resolutions; and
- (f) Forms.

(3) Table 1 cross references the former statute numbers with the new statute numbers.

(4) All of the administrative rules in OAR Chapter 735 were renumbered by the Secretary of State effective March 3, 1988.

(5) Any reference to an OAR Chapter 735 administrative rule number used prior to March 3, 1988, in any DMV documents is a reference to the corresponding rule number effective on and after that date. These documents include but are not limited to those identified in subsections (2)(b) through (f) of this rule.

(6) **Table 2** cross references the former administrative rule numbers with the new administrative rule numbers.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 802.010(3)(d) & Ch. 338, section 3(i), OL 1983

Stats. Implemented: Ch. 338, §3(1), OL 1983

Hist.: MV 18-1985, f. 12-19-85, ef. 1-1-86; March 1988, Renumbered from 735-001-0025; MV 10-1988(Temp), f. & cert. ef. 3-18-88 thru 9-11-88; MV 14-1988, f. & cert. ef. 5-3-88

735-001-0040

DMV Representation at Contested Case Hearings

(1) An agency officer or employee is authorized to appear on behalf of the agency in a hearing or in a class of contested case hearings in which the Attorney General or designee has given written consent for such representation. Except for hearings held pursuant to ORS 183.430(2), the Attorney General has given written consent as required by ORS 183.450(7)(a) for Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) employees to appear on behalf of DMV in all contested case hearings conducted in accordance with ORS Chapter 183 involving:

- (a) Suspensions, revocations and cancellations of driving privileges (except Implied Consent suspension);
- (b) Non-issuances of driver licenses and identification cards;
- (c) Suspension, revocations, cancellations, probations and denials of vehicle dealer certificates;
- (d) Suspension, revocation, cancellations and denials of wrecker certificates;
- (e) Suspension, revocations, denials and refusal to issue or renew towing company certificates;
- (f) Revocations and denials of vehicle transporter certificates; and

(g) Civil penalties assessed under the authority of ORS 822.009 and OAR Chapter 735, Division 150.

(2) DMV representative may present evidence, ask questions of witnesses, and present factual arguments.

(3) The DMV representative shall not present legal arguments:

(a) Legal arguments include arguments on:

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

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

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

(b) Legal arguments do not include arguments on:

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

(B) Comparison of prior actions of DMV conducting the proceedings;

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

(D) The admissibility of evidence or the correctness of procedures being followed.

(4) At the outset of the hearing, the hearing referee shall advise the DMV representative, as well as the petitioner, about the rules and procedures of the hearing. If the DMV representative makes an objection that involves legal argument, the hearing referee shall provide reasonable opportunity for the DMV representative to consult legal counsel. The hearing referee shall also permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183.415, ORS 183.450, ORS 802.010 & Ch. 541 & 822 OL 1991

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

735-001-0050

Administrative Review

(1) In addition to those actions specified in Chapter 702, Oregon Laws 1991, Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall provide administrative reviews for:

(a) Failure to appear actions brought under ORS 809.220 for failure to appear in court on major traffic offenses as required by ORS 153.540(1);

(b) Failure to appear actions brought under ORS 810.310;

(c) Failure to install an ignition interlock device actions brought under Chapter 746, Oregon Laws 1987, as amended by Chapter 576, Oregon Laws 1989;

(d) Cancellations of driver licenses under ORS 809.310 when based on a conviction; and

(e) Vehicle registration cancellations under Chapter 891, Oregon Laws 1989.

(2) For purposes of vehicle registration cancellations brought under Chapter 891, Oregon Laws 1989, as amended by Chapter 702, Oregon Laws 1991, the request for an administrative review must be postmarked within 60 days of the date of the notice. If there is no postmark date or a postmark date cannot be determined, the request must be received at the Hearings Case Management Unit within 60 days from the date of the notice.

(3) Issues to be examined in an administrative review are those expressed in the notice of suspension, revocation or cancellation.

Stat. Auth.: Ch. 702, OL 1991 & ORS 802.010

Stats. Implemented: ORS 809.440

Hist.: MV 27-1991, f. & cert. ef. 12-16-91

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 Branch of the Department of Transportation (DMV) shall use the following to calculate the actual cost of providing a public record:

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

(b) All time spent by staff to produce a record. This includes phone time, typing, 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, ORS 283.110, ORS 802.010, ORS 802.220 & ORS 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

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, ORS 184.619, ORS 192.440, ORS 802.179 & ORS 802.183

Stats. Implemented: ORS 802.175 - ORS 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 contracting 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) "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.

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

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

(9) "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.

(10) "Disseminator," as used in ORS 802.179(13), means a person whose primary business function is the sale or distribution of information and who does not otherwise qualify for personal information under ORS 802.179.

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

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

(13) "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.

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

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

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

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

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

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

(b) Name;

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

(d) Telephone number.

(19) "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.

(20) "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.

(21) "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.

(22) "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 shall determine which address is his or her residence address and use that as the residence address in conducting business with DMV. A residence address shall 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.

(23) "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 shall be considered to be a Service Provider.

(24) "True name" means the name an individual uses to conduct his or her business, such as the name used when filing tax forms, in social security records, or to obtain an insurance policy, bank account, mortgage or drivers license.

(25) "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, ORS 184.619, ORS 192.440, ORS 802.179, ORS 802.183, ORS 803.370 & ORS 807.050

Stats. Implemented: ORS 802.175 – ORS 802.270, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 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

735-010-0010

Requirements to Obtain a Public Record

(1) Fees for records shall 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.

(2) Persons who request information by magnetic tape shall provide their own magnetic tape. DMV will set required input and output formats for records. The required format may be obtained by calling or writing to: DMV, Records Services Unit, 1905 Lana Avenue, N.E., Salem, Oregon 97314.

(3) 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, ORS 184.619, ORS 192.440, ORS 283.110, ORS 802.010, ORS 802.220, ORS 802.230 & ORS 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; Administrative Renumbering 3-1988, Renumbered from 735-032-0025; DMV 15-1998, f. 11-17-98, cert. ef. 12-1-98

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) The Department of Transportation (department) shall establish a Record Inquiry Account for any party who:

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

(b) The department 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 shall 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 the department 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 shall be sent monthly to each account holder.

(6) The account holder shall 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 shall 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 the department determines the required Account Bond amount, the department shall notify the account holder and it shall be the account holder's responsibility to obtain a bond in the amount specified by the department; and

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

(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) The department 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) The department 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 four months and the account is not paid within 15 days of written notification of payment demand by the department;

(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) The department 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 the department 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 shall be responsible for attorney fees and any other fees incurred by the department for the collection of any amount not paid when due.

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

Stats. Implemented: ORS 802.179, ORS 802.220 & ORS 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; Administrative Renumbering 3-1988, Renumbered from 735-032-0030; MV 44-1989, f. & cert. ef. 10-16-89; DMV 16-1998, f. 12-17-98 cert. ef. 1-1-99

735-010-0030

Types of Driver Records Available and Their Fees

(1) The types of driver records available and the fees for these records are:

(a) Abstract of Employment Driving Record — A computer-produced certified record that has certain entries of a person's employment driving record required by ORS 802.200 and 802.220. These entries include employment-related accidents, suspensions and convictions for violation of motor vehicle laws, as set forth in ORS 802.200(10). The record includes entries for the last three years immediately preceding the request. Miscellaneous administrative entries also may be included as determined by the department. Convictions for offenses resulting in mandatory revocation or suspension under ORS 803.410 and 813.400 are excluded from this record as required by ORS 802.200:

(A) The fee for a certified employment driving record ordered by mail or through DMV's Automated Voice Exchange (D.A.V.E.) is \$2;

(B) Employment driving records provided on magnetic tape are \$2 for each record and will not be certified; and

(C) There is a \$1.50 search fee if the employment driving record ordered cannot be found in the department's computer file.

(b) Abstract of Nonemployment Driving Record — A computer-produced certified record containing certain entries of a person's nonemployment driving record required or allowed by ORS 802.200 and 802.220. These entries include motor vehicle accidents, suspensions, revocations, or cancellations of driving privileges, convictions for violation of motor vehicle laws, other than those included in the employment driving record and DUII diversion agreements. For convictions for violation of the basic rule, the rural interstate maximum speed limit, the federal maximum speed limit and the truck/passenger transport vehicle speed limit, occurring after September 27, 1987, the record includes the speed at which the person was traveling and the designated or posted speed. The record includes entries of accidents, convictions and DUII diversion agreements for the three years immediately preceding the request, but does not include suspensions terminated by notice under ORS 803.220. Miscellaneous administrative entries also may be included as determined by the department:

(A) The fee for a certified nonemployment driving record ordered by mail or through D.A.V.E. is \$1.50;

(B) The fee for a nonemployment record provided on magnetic tape is \$1.50 for each record and will not be certified; and

(C) There is a \$1.50 search fee if the nonemployment driving record ordered cannot be found in the department's computer file.

(c) Driver License Information — Includes driver's name, address, license number, license type, license expiration date, license restrictions, license issue date, original business date, status of license, and (if applicable) ID card expiration date. Driver license information may be provided orally or by computer-produced certified print:

(A) Driver license information on a person's own record or information on another person's record will be provided by computer-produced certified print or provided orally by an operator to an account user, for a fee of \$1.50. There is a \$1.50 search fee if the

driver license information cannot be found in the department's computer file; and

(B) The fee for driver license information provided orally by D.A.V.E. is \$1.20. When D.A.V.E. is used and the driver information cannot be found in the department's computer file, a \$1.20 search fee will be charged.

(d) Oregon Police Traffic Crash Report — A copy of the Oregon Police Traffic Crash Report, Form 735-46, that has been filed with DMV. The fee for an Oregon Police Traffic Crash Report, if not certified is \$8.50, \$9.50 if certified. Bulk requests for all copies of Oregon Police Traffic Crash Reports filed with DMV on a specific day are \$.50 per report, plus postage, and are not available in certified form;

(e) Driver License/ID Card Application History — Copies of all original, renewal and duplicate applications for a driver license and/or ID card contained in the department's records. The fee for a driver license/ID card application history if not certified is \$17.50, \$18.50 if certified;

(f) Miscellaneous Driver Document Copy — Copies of any document or transaction dealing with a person's driving record, driver license, or driving privilege. The fee for a miscellaneous driver document copy if not certified is \$4, \$5 if certified;

(g) Driver File History — A computer-produced print containing all entries shown on the computer file for a driver, except those entries exempted under ORS 192.501 and 192.502 (e.g., medical information). The fee for a driver file history is \$2. There is a \$1.50 search fee if the driver's file cannot be found in the department's computer file;

(h) Certified Court Print — A computer-produced driving record of a person including convictions for major traffic offenses, DUII diversion agreements and any alcohol rehabilitation entries for the last ten years; and convictions for minor traffic offenses and motor vehicle accidents for the last five years. Suspensions, cancellations and revocations are also included, along with miscellaneous administrative entries:

(A) The fee for a certified court print ordered by mail or through D.A.V.E. is \$3;

(B) Court prints provided on magnetic tape are \$3 for each record and will not be certified; and

(C) There is a \$1.50 search fee if the driving record ordered cannot be found in the department's computer file.

(i) Suspension Package — Includes a certified court print and certified copies of any of the following documents needed for a particular court proceeding: suspension, revocation or cancellation order; returned envelopes, signed receipts, or affidavits showing whether the person received notice of the suspension, revocation or cancellation; hardship permit applications; license restrictions, or any letter sent to the person by first class mail 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 the driving record ordered cannot be found in the department's computer file;

(j) Driver Records List — A records list of drivers' names, addresses and other record information meeting some specific criteria set by the requester, such as a list of all names and addresses of drivers of a specific age group. Records lists are available 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 driver records list is furnished on paper or on magnetic tape provided by the requester. The fee for a driver records list using available criteria is \$700. If the records list is furnished on paper, no more than 50,000 records shall be provided. 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 driver 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;

(k) Driving Record — Purged Information — Copies of microfiche containing entries of a person's driving record purged

from the department's computer file. The fee for a driver record-purged information if not certified is \$1.50, and \$2.50 if certified;

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

(m) Driver Report Service — Involves adding or deleting individuals from the driver report service. When a person requests an individual be added to the driver report service, the requester is automatically provided with a certified court print when certain convictions for violation of motor vehicle laws, accidents, suspensions, revocations or cancellations are posted to that individual's driving record. A person must have a current Record Inquiry Account with DMV before he or she can use the driver report service. The fee to add or delete an individual from the driver report service is \$2. This fee does not include the cost of the certified court print provided.

(2) Persons who want to look at a record using a video terminal at a DMV office shall pay the same fee charged for the record look-ups, unless otherwise specified by rule. The person must qualify to obtain personal information from motor vehicle records and must make an appointment with the DMV Records Services Unit at 1905 Lana Avenue, N.E., Salem, Oregon 97314 to view a record.

(3) Personal information shall not be included in any driver record requested unless the requester qualifies to receive such information under ORS 802.175 to 802.191 and OAR 735-010-0200 to 735-010-0230.

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

Stats. Implemented: ORS 802.177, ORS 802.179, ORS 802.200, ORS 802.220 & ORS 802.23

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. 12-17-98, cert. ef. 1-1-99; DMV 20-2001, f. & cert. ef. 10-18-01

735-010-0040

Types of Vehicle Records Available and Their Fees

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

(a) 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 Automated Voice Exchange (D.A.V.E.) 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

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

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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 on magnetic tape furnished by the person requesting the information. The information may be provided on magnetic tape furnished by the requester, or on paper. The fee for an automated meter skip is \$.02 (\$20 per thousand);

(h) 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 on paper or on magnetic tape provided by the requester. The fee for a vehicle records list using available criteria is \$700. If the records list is furnished on paper, no more than 50,000 records shall be provided. 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;

(i) 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 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;

(j) 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

(k) 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.

(2) Persons who want to look at a record using a video terminal at a DMV office shall pay the same fee charged for other record look-ups, unless otherwise specified by rule. The person must qualify to obtain personal information from motor vehicle records and must make an appointment with the DMV Records Services Unit at 1905 Lana Avenue, N.E., Salem, Oregon 97314 to view the record.

(3) Personal information shall not be included in any motor vehicle record requested unless the requester qualifies to receive such information under ORS 802.175 to 802.191 and OAR 735-010-0200 to 735-010-0230.

Stat. Auth.: ORS 184.616, ORS 814.619, ORS 192.440, ORS 802.179, ORS 802.183, ORS 802.220 & ORS 802.230

Stats. Implemented: ORS 802.177, ORS 802.179, ORS 802.200, ORS 802.220 & ORS 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; 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. 12-17-98, cert. ef. 1-1-99; DMV 20-2001, f. & cert. ef. 10-18-01

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) MCO Copies — Copies of manufacturer's certificates of origin (MCO) for manufactured structures are available. These are copies of the MCOs for all manufactured structures that have been recently titled and are provided weekly at a fee of \$1 per page, plus postage.

(2) Personal information shall 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 shall be charged actual cost only, using the criteria set forth in OAR 735-010-0000.

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

Stats. Implemented: ORS 802.177, ORS 802.179, ORS 802.200, ORS 802.220 & ORS 802.230

Hist.: DMV 16-1998, f. & cert. ef. 1-1-99

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, ORS 184.619 & ORS 192.440

Stat. Implemented: ORS 807.115

Hist.: DMV 9-2001, f. & cert. ef. 5-14-01

735-010-0070

Address Changes on DMV Records

(1) The Driver and Motor Vehicles Services Branch of the Department of Transportation (DMV) shall maintain a customer file which contains information on the customer and the customer's business with DMV. A single notice of address change shall be sufficient for a customer to comply with ORS 807.560 (address changes related to driver licensing), ORS 803.220 (address changes related to titling and registering vehicles) and ORS 807.420 (address changes related to identification cards), as long as DMV is provided with sufficient information to identify the customer's file.

(2) For the purposes of address change requirements under ORS 807.560, DMV adopts the definition of the term "writing" established in ORS 192.410(6)

Stat. Auth.: ORS 184.616 & ORS 802.012

Stats. Implemented: ORS 803.220, ORS 807.420 & ORS 807.560

Hist.: DMV 1-1995, f. & cert. ef. 1-23-95

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 true 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 true 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, ORS 184.619, ORS 803.370 & ORS 807.050

Stats. Implemented: ORS 802.200, ORS 802.250, ORS 802.260, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 821.080

Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

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 & ORS 184.619

Stats. Implemented: ORS 802.200, ORS 802.260, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 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, ORS 802.260, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 821.080

Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

735-010-0130

Establishment and Use of True Name by an Individual

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

(1) An applicant for an Oregon driver license, driver permit or identification card, shall establish his or her true name as supported by age and identity documents required under OAR 735-062-0020.

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

(3) If an individual has not established a true 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 ORS 803.140 or any transitional ownership record as defined in ORS 801.562, shall use his/her true 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 true name shall not include a title or honorific such as, but not limited to, Mr., Mrs., Reverend or Doctor.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 801.562, ORS 803.015, ORS 803.050, ORS 803.140, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560, ORS 809.060 & ORS 821.080

Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

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 & ORS 184.619

Stats. Implemented: ORS 801.562, ORS 803.015, ORS 803.050, ORS 803.140, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 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, ORS 184.619, ORS 803.370 & ORS 807.050

Stats. Implemented: ORS 802.250, ORS 802.260, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 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, ORS 184.619, ORS 803.370 & ORS 807.050
Stats. Implemented: ORS 802.260, ORS 803.220, ORS 803.370, ORS 807.050, ORS 807.420, ORS 807.560 & ORS 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, ORS 184.619 & ORS 803.370
Stats. Implemented: ORS 801.040(6) & (7), ORS 803.350, ORS 803.465 & ORS 815.295
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99

Requests for Personal Information

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, ORS 184.619, ORS 192.440, ORS 802.179 & ORS 802.183
Stats. Implemented: ORS 802.175 - ORS 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

In order for DMV to make a determination of whether a business is legitimate under ORS 802.179(3), a person must provide sufficient evidence to DMV as follows:

(1) 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

(2) 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.

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

Stats. Implemented: ORS 802.179

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

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, ORS 184.619, ORS 192.440, ORS 802.179 & ORS 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 the motor vehicle records of the Department of Transportation, 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;

(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 802.105; or

(h) Hold record title to real property upon which is located a manufactured structure that is exempt from titling under ORS 820.510.

(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 in this rule are available from the agency.]

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

Stats. Implemented: ORS 802.179

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

DIVISION 12

DIVISION PUBLICATIONS

735-012-0000

Fees Charged for the DMV Administrative Rules Handbook and the Oregon Vehicle Code

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) publishes the **DMV Administrative Rules Handbook** containing a compilation of chapter 735 administrative rules and the **Oregon Vehicle Code**, a biennial publication containing a compilation of Oregon motor vehicle laws. These publications are available to any person or organization for a fee that covers DMV's actual costs.

(2) The fee for a DMV Administrative Rules Handbook is \$16.

(3) The DMV Administrative Rules Handbook is updated periodically when chapter 735 rules are adopted, amended or repealed:

(a) In order to receive the updates, a person who purchases a DMV Administrative Rules Handbook shall pay a fee of \$12 per year. This fee covers the cost to reproduce and mail the updates;

(b) The purchaser's name shall be added to the mailing list to receive updates for one calendar year beginning January 1 and ending December 31, when the fee is received;

(c) The \$12 fee shall be received by DMV before any updates for a calendar year are mailed;

(d) Updates for the calendar year in which the DMV Administrative Rules Handbook is originally purchased shall be included in the purchase price of the book.

(4) The actual cost to provide the DMV Administrative Rules Handbook is calculated from:

(a) The cost to print the handbook; and

(b) The cost to mail the handbook.

(5) The fee for an Oregon Vehicle Code is \$5.

(6) The actual cost to provide the Oregon Vehicle Code is calculated from:

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

(b) The cost to mail the code book.

[Publications: The publications referenced are available from the agency.]

Stat. Auth.: ORS 183.370, ORS 192.440, ORS 802.010 & ORS 802.050

Stats. Implemented: ORS 183.370 & 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

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 Branch 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 & ORS 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 735-016-0080 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 and driver permits.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.500, ORS 802.520, ORS 803.200, ORS 803.350, ORS 803.355, ORS 803.360, ORS 807.050, ORS 807.062, ORS 821.080 & ORS 826.033.

Stats. Implemented: ORS 802.520, ORS 803.200, ORS 803.305, ORS 803.325, ORS 803.350, ORS 803.355, ORS 803.360, ORS 803.370, ORS 807.010, ORS 807.040, ORS 807.045, ORS 807.050, ORS 807.062 & ORS 821.080

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

735-016-0020

Definitions that Apply to Residency and Domicile

For the purposes of OAR 735-016-0010 through 735-016-0080, 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 ORS 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, ORS 184.619, ORS 803.350, ORS 803.370, ORS 807.050, ORS 807.062 & ORS 821.080

Stats. Implemented: ORS 802.500, ORS 802.520, ORS 803.200, ORS 803.300, ORS 803.325, ORS 803.350, ORS 803.355, ORS 803.360, ORS 803.370, ORS 807.010, ORS 807.040, ORS 807.045, ORS 807.050, ORS 807.062, ORS 821.080 & ORS 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, including but not limited to proof of:

(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) Payment of Oregon income taxes; 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 DMV proof showing intent to return to Oregon, including but not limited to proof that:

(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 for a period of limited duration (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 spouse or a dependent child residing with the member, who lists Oregon residence in his or her military records; or

(e) The person pays Oregon income tax.

(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 or driver licensing shall provide proof as described in section (2) or (3) of this rule.

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

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

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

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 or driver permit:

(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 interjurisdictional 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 or driver permit, 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 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 non-resident 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 or dependents residing with the member, are eligible to register a vehicle or obtain a driver license or permit 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, ORS 184.619, ORS 803.350, ORS 803.370, ORS 807.050, ORS 807.062 & ORS 821.080

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

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

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, ORS 184.619 & ORS 803.350

Stats. Implemented: ORS 802.500, ORS 802.520, ORS 803.200, ORS 803.300, ORS 803.325, ORS 803.350, ORS 803.355, ORS 803.360 & ORS 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 or driver permit 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 or driver permit, proof of residency or domicile may be required if:

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

(b) A person has no actual residence address.

(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 or driver permit;

(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 or permit 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 or vehicle registration; or

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

(e) 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 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, ORS 184.619, ORS 803.350, ORS 803.370, ORS 807.050, ORS 807.062 & ORS 821.080

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

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

735-016-0070

Proof of Residency or Domicile

(1) The following shall be accepted as proof of residency or domicile to obtain or renew a driver license or driver permit or to register or renew a vehicle in Oregon. This is in addition to proof of residence address requirements as established in OAR 735-062-0030:

(a) A residence address in Oregon where the applicant physically resides which is not a hotel, motel, campground or recreational vehicle park and is not the address of a service provider as defined in OAR 735-010-0008; or

(b) An Oregon Income Tax Return, filed for the previous year. It must include a certification by the applicant that the Oregon Income Tax Return is a true photocopy of the original and that the original has been filed with the State of Oregon, Department of Revenue.

(2) If an individual residing in Oregon is not able to meet the requirements of section (1) of this rule, a certification of residency or domicile for Oregon driver license, driver permit or vehicle registration, is required, along with two or more forms of proof of the person's residency or domicile. Acceptable proof includes but is not limited to:

(a) A property tax record, 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 from a relief agency or shelter that the person receives services in Oregon;

(e) Fuel receipts, motel receipts, or other documents showing that the person has lived in multiple states (more than two) during the past 12 months, and in Oregon for at least six of the last 12 months, as evidence that the person who has no residence address, does not primarily reside in some other state;

(f) Documents showing that 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) A document showing receipt of public assistance from an agency of the State of Oregon; or

(h) An Oregon voter registration card.

(3) If an individual who does not currently reside in this state but is domiciled in Oregon is not able to meet the requirements of section (1) or (2) of this rule, a certification of residency or domicile for Oregon driver license, driver permit or vehicle registration, must be completed. The person must provide proof showing intent to return to Oregon as set forth 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 a copy of service records, fuel receipts, garage receipts or other documents that show the vehicle(s) is being 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 which show a vehicle has been left in Oregon; or

(d) Dispatch, deliver, maintenance, tax records, or other documentation that show the vehicles are being housed or dispatched from a location within Oregon or are otherwise being operated in Oregon.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.350, ORS 803.370, ORS 807.050, ORS 807.062 & ORS 821.080
 Stats. Implemented: ORS 802.500, ORS 802.520, ORS 803.200, ORS 803.300, ORS 803.325, ORS 803.350, ORS 803.355, ORS 803.360, ORS 803.370, ORS 807.010, ORS 807.040, ORS 807.045, ORS 807.050, ORS 807.062, ORS 821.080 & ORS 826.033
 Hist.: DMV 7-1999, f. & cert. ef. 12-17-99

735-016-0080

Social Security Number for Driver License, Driver Permit or Vehicle Registration

(1) DMV may require a person requesting an Oregon driver license, driver permit or vehicle registration to provide his or her social security number for use in verifying the person's identity or that the person is a resident of or domiciled in Oregon.

(2) DMV may refuse to issue a driver license, driver permit or vehicle registration if the person refuses to provide the social security number.

(3) Except as provided in section (4) of this rule, the social security number shall:

- (a) Be a confidential part of the customer record;
- (b) Not be provided on any printed customer record; and
- (c) Not be displayed on any registration or title document.

(4) DMV may disclose the social security number to other governmental agencies for the purposes stated in section (1) of this rule.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.370 & ORS 807.050
 Stats. Implemented: ORS 802.200, ORS 803.370 & ORS 807.050
 Hist.: DMV 7-1999, f. & cert. ef. 12-17-99

DIVISION 20

VEHICLE TITLE AND REGISTRATION

General Title Provisions

735-020-0000

Perfection of a Security Interest — Definitions

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

(1) "Evidence of Ownership" as used in ORS 803.097 in reference to the application for notation of a security interest in a vehicle must be in the form of a document, unless otherwise provided by rule, that:

- (a) Contains a description of the vehicle;
- (b) Identifies who owns the vehicle or to whom interest is assigned, awarded, transferred, etc.; and
- (c) Is the primary ownership document required for issuance of title, as provided in OAR 735-020-0010; or
- (d) Is a transitional ownership document (TOD) as provided in OAR 735-020-0015.

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

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

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

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 803.097
 Stats. Implemented: ORS 801.130, ORS 801.402, ORS 801.562, ORS 803.097 & ORS 803.130 - ORS 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

735-020-0010

Perfection of Security Interest — Primary Ownership Document

(1) The Driver and Motor Vehicle Services Branch (DMV) of the Department of Transportation shall consider the following to be primary ownership documents:

(a) The manufacturer's certificate of origin (MCO) or equivalent documents as covered in OAR 735-022-0030 through 735-022-0060.

This applies to vehicles built by a manufacturer and which have not been titled or registered in any jurisdiction; or

(b) The current title issued for the vehicle by the State of Oregon or another jurisdiction.

(2) DMV shall 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 document described in section (1) of this rule is not available;

(c) The security interest is in a vehicle that:

(A) Was not manufactured for sale in the United States of America; and

(B) Is not currently registered or titled in the United States, the District of Columbia, Guam, Puerto Rico, or the Northern Marianas Island Trust Territories.

(d) The security interest is in a vehicle last titled or registered in a jurisdiction other than those listed in paragraph (2)(c)(B) of this rule; or

(e) DMV is satisfied that ownership documents described in section (1) of this rule were never issued, have been surrendered to a jurisdiction, or are not obtainable. This includes but is not limited to:

(A) A vehicle built by someone other than a manufacturer and which has never been titled or registered;

(B) A vehicle last titled in a jurisdiction that no longer has a record of the vehicle and therefore will not replace a lost title; or

(C) A vehicle whose title has been surrendered to a jurisdiction because the vehicle was damaged.

(3) Examples of other evidence of ownership DMV may accept under section (2) of this rule include but are not limited to:

(a) A court order from a court having jurisdiction over persons or property located in Oregon that awards ownership;

(b) A sheriff's bill of sale;

(c) A certificate or affidavit of possessory lien foreclosure;

(d) Inheritance affidavits vesting the interest of a deceased owner;

(e) An affidavit or certification of ownership on a trailer having loaded weight of less than 8,000 pounds and which was built by someone other than a manufacturer;

(f) An application for duplicate (replacement) and transfer of Oregon title that includes or is accompanied by a signed statement as to the disposition of the original title, releases of interest from anyone shown on the original title who are not to be shown on the new title, and is not subject to odometer disclosure requirements under ORS 803.102 and OAR 735-028-0000 through 735-028-0100;

(g) A salvage title, salvage bill of sale, or wrecker's bill of sale on a vehicle whose title has been surrendered to a jurisdiction; or

(h) For a vehicle described under subsections (2)(c) and (d) of this rule:

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

(B) A vehicle registration if the vehicle is not titled.

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

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

(6) Reasons DMV may determine that a document described in this rule as a primary ownership document may be invalid as evidence of ownership for the purpose of perfecting a security interest include but are not limited to situations where:

(a) A document is determined to be fraudulent or to contain false information;

(b) A title, manufacturer's certificate of origin or other evidence of ownership is determined not to be the current ownership document for the vehicle; or

(c) The document does not reflect the true ownership of the vehicle.

(7) DMV shall not determine a primary ownership document to be invalid based only on missing title requirements (e.g., missing odometer information, fees, releases).

Stat. Auth.: ORS 184.616, ORS 801.402, ORS 803.097 & Ch. 233, OL 1993

Stats. Implemented: ORS 801.401 & ORS 803.097

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

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, 20 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 20 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 nonsequential 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 174.120, ORS 184.616, ORS 184.619, ORS 187.010, ORS 803.097 & ORS 803.136

Stats. Implemented: ORS 803.130 - ORS 803.138

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

735-020-0020

Perfection of a Security Interest — Application for Notation of a Security Interest

(1) Application for notation of a security interest on a vehicle title, hereafter called “notation application” may be:

(a) An application for Oregon title on an Oregon title certificate, application for Oregon title (DMV Form 735-226) submitted with a primary ownership document as defined in OAR 735-020-0010;

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

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

(2) The notation application shall include the following:

(a) If the notation application is in the form of an application for title as provided in subsection (1)(a) of this rule, all of the following shall be required:

(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.

(b) If the notation application is as provided in subsection (1)(b) of this rule, in addition to the information required under subsection (2)(a) of this rule, the application shall state the purpose for submitting the documents;

(c) If the notation application is a TOD as provided in subsection (1)(c) of this rule, the application shall include information required under ORS 801.562, OAR 735-020-0015, and 735-020-0040 through 735-020-0045.

(3) If the notation application is in any form other than a TOD, the provisions of OAR 735-020-0030 and the following provisions relating to the primary ownership document apply:

(a) The notation application must be accompanied by the primary ownership document unless the Driver and Motor Vehicle Services Branch (DMV) of the Department of Transportation is in possession of that document, or unless that document is to be submitted separately;

(b) If DMV has possession of the ownership document when the notation application is submitted, the applicant shall provide information to DMV indicating:

(A) That DMV has the ownership document; and

(B) Where and when that document was submitted.

(c) If the notation application and the ownership document are submitted separately, the applicant shall provide DMV with information sufficient to connect the two documents. With each document (notation application and ownership document) DMV shall require:

(A) A description of the vehicle;

(B) Information that the other documentation is being submitted separately; and

(C) Information on who is submitting the other documentation and where and when it is to be submitted.

(4) When the notation application is in the form of a TOD, the provisions of ORS 801.562, OAR 735-020-0015, 735-020-0030, and 735-020-0040 through 735-020-0045 shall govern when all requirements for perfection are determined to be met.

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

(a) Except as provided in subsection (c) of this section, when the notation application and evidence of ownership are submitted separately, the date all requirements for notation are first in the possession of DMV shall determine the receipt date for the application for notation of a security interest;

(b) When an application is accepted by an agent of DMV, the receipt date for the notation application shall be the date DMV (not the agent) first receives all requirements; and

(c) If DMV is not provided with the information required in subsections (4)(b) and (c) of this rule, and if the document(s) is released by DMV, the receipt date shall be the date all documents are again in the possession of DMV.

(6) A receipt date on documents shall not determine the date of perfection when:

(a) The application for notation is in a form other than a TOD, and the receipt date reflects the date when only one of the two documents (application for notation and primary ownership document) are in the possession of DMV;

(b) DMV determines the application for notation of a security interest does not comply with the requirements for perfection as covered in statute and DMV rule such as, but not limited to, when:

(A) The person named as owner on the application is determined not to be the owner of the vehicle;

(B) The person named as security interest holder on the application is determined not to have had a security interest on the date the application was received;

(C) The application does not contain the information required by law; or

(D) DMV does not receive the required primary ownership document or the document submitted is determined not to be a primary ownership document.

(c) The applicant elects to retain the documents rather than having them submitted for perfection of the security interest;

(d) DMV receives a request for return of the primary ownership document and a release of interest or statement from the security interest holder indicating they are withdrawing the request for perfection of their interest; or

(e) The notation application and primary ownership document are submitted separately and there is a conflict in the ownership information on the notation application, and ownership information on, or received in relation to the ownership document. For example a security interest holder submits information (notation application) indicating they have a security interest with Party A. Security interest holder does not submit ownership document. The title certificate has been or is subsequently submitted endorsed to show that Party A sold the vehicle to Party B. Security interest holder does not have security agreement with party B.

Stat. Auth.: ORS 184.616, ORS 801.562, ORS 803.097 & Ch. 233, OL 1993
Stats. Implemented: ORS 803.097 & ORS 803.130 - ORS 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

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, ORS 184.619, ORS 803.092, ORS 803.094, ORS 803.097 & ORS 803.136

Stats. Implemented: ORS 803.130 - ORS 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 Branch 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 - ORS 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 OAR 735-020-0040.

Stat. Auth.: ORS 184.616, ORS 801.402, ORS 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 OAR 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 Branch 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, ORS 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 Branch 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 documents; 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, ORS 803.105 & Ch. 148 & 452, OL 1989

Stats. Implemented: ORS 803.105

Hist.: MV 21-1989, f. & cert. ef. 10-3-89

DIVISION 22

TITLE ISSUANCE

735-022-0000

Standards Establishing Evidence of Ownership to a Vehicle

(1) To ensure compliance with state statutes, the following standards are established as satisfactory evidence of ownership of a motor vehicle. Evidence shall include, but is not limited to the following:

(a) Titles and/or bills of sale from owners of record. "Owner of record" means the person(s) shown on the most current record in the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) files;

(b) Bill of sale from an insurance company or auto wrecker, if the title has been previously surrendered to DMV;

(c) Bills of sale or contracts;

(d) Legal dispositions: sheriff's bill of sale, or court orders of award;

(e) Estate settlement papers;

(f) Acquisition of vehicle through property rights (vehicle is on property at time the property was purchased);

(g) Bills of sale to the unibody or frame;

(h) Bills of sale to the engine.

(2)(a) For all motor vehicles where evidence of items in subsections (1)(a) through (f) of this rule do not exist, and without a bill of sale as specified in subsection (1)(g) of this rule, no title shall be issued. No title shall be issued for motorcycles where evidence of items in subsections (1)(a) through (f) of this rule do not exist, unless the requirements in both subsections (1)(g) and (h) of this rule can be met. When motorcycles are titled by DMV, a vehicle identification number (VIN) shall be assigned to the frame of the vehicle when no existing frame number is available. The title record shall be based on the existing frame number or the VIN assigned by DMV. Assignment of a VIN shall also apply to mopeds;

(b) Motorcycles which qualify for registration as an antique or special interest vehicle shall be exempt from the assignment of a vehicle identification number on the frame, if:

(A) DMV is satisfied that the vehicle as originally manufactured had no vehicle identification number; and

(B) DMV is otherwise satisfied as to the true identity of the vehicle.

(3) Trailers are subject to the same provisions as motor vehicles under sections (1) and (2) of this rule. In addition, a bill of sale must be provided for the axle or trailer frame for all manufactured trailers or they will not be titled. Special affidavits shall be available for trailers, under certain conditions, as outlined in OAR 735-022-0010.

Stat. Auth.: ORS 802.010(3)(d), ORS 803.045, ORS 803.050 & ORS 821.060

Stats. Implemented: ORS 803.045 & ORS 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

735-022-0010

Requirements for Use of the Special Affidavit to Obtain Oregon Title and Registration

(1) If the items of evidence required in OAR 735-022-0000(1)(a) through (f) are not available, OAR 735-022-0000(1)(g) — Bills of sale to the unibody or frame may be used in conjunction with a special affidavit to obtain Oregon title and registration.

(2) When proof can be presented that the vehicle was previously registered in the State of Oregon, such proof and special affidavit may be used to obtain Oregon title and registration.

(3) Trailers shall be subject to the provisions of evidence as outlined in OAR 735-022-0000 except those which meet the following criteria:

(a) Trailers having a combined weight of 8,000 pounds or less;

(b) Trailers which if licensed would be subject to ORS 803.420(1);

(c) Trailers that have not been previously registered or titled in any state or country;

(d) Trailers not manufactured by a commercial firm.

(4) Trailers meeting all of these criteria may be titled solely on the basis of an affidavit under the authority of ORS 803.205.

Stat. Auth.: ORS 802.010, ORS 803.205 & ORS 803.420

Stats. Implemented: ORS 803.205

Hist.: MV 11-1980, f. & ef. 6-9-80; MV 17-1982, f. 10-29-82, ef. 11-1-82;

Administrative Renumbering 3-1988, Renumbered from 735-071-0070

735-022-0020

Oregon Uniform Commercial Code Search

(1) When an Oregon Uniform Commercial Code (UCC) Search is required to be obtained, the following applies:

(a) The UCC search will be on form provided by the Oregon Secretary of State's office;

(b) It must be obtained under the name of the previous owner(s), if there is one, and the applicant(s); and

(c) It must be submitted to DMV within 15 days after it is issued.

(2) In lieu of a UCC Search, DMV will accept from the secured party a signed and countersigned statement that they have checked with the Secretary of State's office within the last 15 days and of what their findings were.

Stat. Auth.: ORS 802.010, ORS 803.035, ORS 803.045, ORS 821.050 & ORS 821.060

Stats. Implemented: ORS 803.100

Hist.: MV 26-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0540

735-022-0030

Manufacturer's Certificate of Origin (MCO) Definitions

The following definitions apply to OAR 735-022-0030 through 735-022-0060:

(1) "Manufacturer's Certificate of Origin" (MCO) also referred to by terms such as a Manufacturer's Statement of Origin (MSO) or a Certificate of Origin to a Vehicle means an ownership document issued by the manufacturer of a vehicle or of one or more stages of a vehicle which:

(a) Identifies the manufacturer;

(b) Describes the vehicle or stage of a vehicle covered by the MCO; and

(c) Identifies to whom the ownership of the vehicle or stage of the vehicle has been transferred or assigned.

(2) "Uniform Security MCO" means an MCO produced under the standards recommended by the American Association of Motor Vehicle Administrators (AAMVA) under **Policy H-12** of the **AAMVA Policy Position Manual** as printed in **October, 1986**.

(3) "Glider" means vehicle parts manufactured and sold as a unit (component kit) to be used in rebuilding heavy trucks.

[Publications: Publications referenced in this rule are available from the AAMVA, 1201 Connecticut Avenue NW, Suite 910, Washington, D.C. 20036.]

Stat. Auth.: ORS 802.010, ORS 803.045, ORS 803.050 & ORS 820.500

Stats. Implemented: ORS 803.045 & ORS 820.500

Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0500

735-022-0040

Manufacturer's Certificate of Origin (MCO) Form and Content

(1) MCOs shall be on a form provided by the manufacturer.

(2) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) recommends manufacturers produce a Uniform Security MCO, however, DMV shall accept MCOs other than the Uniform Security MCO.

(3) MCOs shall be completed only by the manufacturer or the manufacturer's designee.

(4) Except for MCOs issued for mobile homes, MCOs issued for complete vehicles shall contain at least the following:

- (a) The name of the vehicle manufacturer;
- (b) The vehicle year model, make and identification number;

and

(c) The name of the party to whom interest has been assigned.

(5) MCOs issued for mobile homes shall contain at least the following:

- (a) The name of the vehicle manufacturer;
- (b) The vehicle make and identification number;
- (c) The year in which the vehicle was manufactured or the vehicle year model; and

(d) The name of the party to whom interest has been assigned.

(6) MCOs issued for multi-stage manufactured vehicles (i.e., kitted vehicles, motor homes) shall contain at least the name of the vehicle manufacturer, the vehicle make and identification number, and the name of the party to whom interest has been assigned for each stage of manufacture. In addition, the MCO shall:

(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.

(7) MCOs issued for component kits shall identify that the MCO is for a kit or "glider" and shall contain at least the following:

- (a) The name of the component kit manufacturer;
- (b) The component kit year model, make and identification number; and

(c) The name of the party to whom interest has been assigned.

(8) 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, ORS 803.045, ORS 803.050 & ORS 820.500

Stats. Implemented: ORS 803.045 & ORS 820.500

Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0510

735-022-0050

When Manufacturer's Certificate of Origin (MCO) Is Required

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall require MCOs to be submitted in support of title applications for:

- (a) Any vehicle built by a manufacturer; and
- (b) Any reconstructed motor truck built using a component kit.

(2) For vehicles built in stages by two or more manufacturers, DMV shall require an MCO from each manufacturer for the portion of the vehicle manufactured.

(3) For mobile homes manufactured with more than one unit, DMV shall require an MCO covering each unit. This may be in the

form of a single MCO that covers all units, or multiple MCOs covering individual units forming the complete mobile home.

(4) For reconstructed motor trucks rebuilt using a component kit, the MCO provided must be for the component kit.

(5) Notwithstanding section (1) of this rule:

(a) For vehicles with a year model of 1987 or earlier, MCO requirements shall only apply to passenger vehicles, motor homes, mobile homes, mopeds, motorcycles, all-terrain vehicles and motor trucks built with component kits;

(b) MCOs shall not be required if the manufactured vehicle or reconstructed vehicle has been previously titled or registered in any jurisdiction.

(6) DMV may require or accept MCOs 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 802.010, ORS 803.045, ORS 803.050 & ORS 820.500

Stats. Implemented: ORS 803.045 & ORS 820.500

Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0520

735-022-0060

Documents Equivalent to Manufacturer's Certificate of Origin (MCO)

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) may accept equivalent documents in lieu of MCOs when:

(a) The original MCO has been lost or destroyed;

(b) The vehicle was not manufactured for sale in the United States and an MCO was never issued for the vehicle;

(c) In the case of multi-stage manufactured vehicles where an MCO was not produced for the first stage, or where a portion of the vehicle was previously titled or registered; or

(d) The manufacturer does not produce an MCO.

(2) Equivalent documents shall provide evidence of releases of interest forming a complete chain of ownership from the current applicant back to the point of manufacture. If a portion of the vehicle was previously titled or registered, the chain of ownership for that portion of the vehicle must go back to the last owner of record.

(3) Examples of equivalent documents are:

(a) A copy of the manufacturer's invoice to the dealer when the MCO has been lost or destroyed. 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 when 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 802.010, ORS 803.045, ORS 803.050 & ORS 820.500

Stats. Implemented: ORS 801.402

Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0530

735-022-0070

Inspection of Vehicle Identification Numbers

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may, by written agreement, designate any entity to act as its agent to perform a physical vehicle identification number (VIN) inspection pursuant to ORS 803.212.

(2) For purposes of this rule, "entity" is a person, agency, or business and includes a federal, state, county or municipal agency.

(3) In determining whether to designate an entity as DMV's agent to perform VIN inspections, DMV shall consider whether the entity has adequate training, resources and facilities for the type of inspections it will be authorized to perform.

(4) Where DMV does not have a written agreement with a particular Oregon law enforcement agency, an authorized representative from DMV may enter into an oral agreement to accept a vehicle identification number inspection from that law enforcement agency on any vehicle that agency has in its custody.

(5) DMV, in its discretion, may limit the type of VIN inspections an agent is authorized to perform.

(6) Only DMV, or Oregon State Police (OSP) and other Oregon law enforcement agencies, if designated as an agent of DMV, may perform a VIN inspection if the vehicle is located in Oregon and:

- (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 822.138;

(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 U.S. Federal Standards (OAR 735-022-0080); or

(g) The vehicle has been reported as a totaled vehicle. This subsection does not apply to vehicles reported totaled due to theft and which are recovered in a condition that does not otherwise require them to be totaled.

(7) If the vehicle is located in another jurisdiction, DMV designates the following persons or agencies as having authority to do VIN inspections:

- (a) Any law enforcement agency;
- (b) Any Motor Vehicles Division or agency responsible for the titling and/or registration of vehicles;
- (c) For vehicles owned by U.S. armed services personnel, the owner's commanding officer, Provost Marshal or other person in authority as determined by DMV; or
- (d) Anyone designated by DMV under a written agreement.

(8) The inspection fee required under ORS 803.215 shall be required for all inspections performed under ORS 803.210 unless the inspection is performed outside Oregon.

Stat. Auth.: ORS 184.616 & ORS 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

735-022-0080

Definitions Relating to Vehicles Manufactured for Use Outside the United States

As used in OAR 735-022-0090 the following terms apply:

(1) "Federal Standards" mean:

(a) Federal Motor Vehicles Safety Standards specified by the National Highway Traffic Safety Administration (NHTSA) in **Title 49, Code of Federal Regulations**; and

(b) The vehicle emissions standards specified by the Environmental Protection Agency (EPA) in **Title 40 Code of Federal Regulations**.

(2) "Bond" means the bond that must be filed with the U.S. Customs office to allow a nonconforming vehicle to enter the country. The purpose of the bond is to insure that the vehicle will be modified so that it complies with federal standards prior to use in the United States. Failure to bring the vehicle into compliance can result in a bond forfeiture at the request of the U.S. Customs Office.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010 & ORS 803.045

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

735-022-0090

Proof of Compliance with Federal Standards and Exemptions for Vehicles Manufactured for Use Outside the United States

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall require evidence of compliance with federal standards when:

(a) The ownership documents submitted in support of an application for Oregon title were issued by a jurisdiction other than one

of the states of the United States, or by the District of Columbia, or Puerto Rico;

(b) The ownership documents submitted in support of an application for Oregon title were issued by the U.S. military; or

(c) A Manufacturer's Certificate of Origin submitted in support of an application for Oregon title has been issued by someone other than the authorized U.S. distributor of the vehicle.

(2) DMV shall accept the following documents as evidence that the vehicle complies with federal standards:

(a) A declaration made on both the NHTSA Form HS#7 and on the EPA Form #3520-1 stating the vehicle is in compliance with or exempt from federal standards;

(b) Copies of letters from both NHTSA and EPA stating the vehicle was brought into compliance with, or is exempt from federal standards;

(c) Notice of release of the bond by U.S. Customs;

(d) If the vehicle was imported by the U.S. military or U.S. military personnel, any U.S. military form as long as it states the vehicle was brought into compliance with, is exempt from, or was manufactured to comply with, federal standards; or

(e) For vehicles whose ownership documents were issued by Canada, U.S. territories, or U.S. protectorates, any U.S. Customs form which contains all of the following:

(A) A vehicle description, which includes the vehicle identification number; and

(B) A statement that the vehicle complies with federal standards as defined in OAR 735-022-0080 or that the EPA and DOT stickers are affixed; and

(C) Signature or stamp of a U.S. Customs agent.

(3) DMV shall not require evidence of compliance with federal standards when:

(a) The vehicle appears to have been imported from another country, but has already been titled or registered in Oregon or another state;

(b) DMV receives a copy of a Manufacturer's Certificate of Origin (MCO) that indicates the vehicle was manufactured for use in the United States;

(c) The vehicle was sold by an authorized distributor in U.S. territories or protectorates and the MCO submitted to DMV was issued by the authorized distributor;

(d) DMV receives a statement from the manufacturer that indicates the vehicle complies with U.S. standards; or

(e) DMV receives documentation indicating that U.S. Customs does not require the vehicle to comply with federal standards.

Stat. Auth.: ORS 802.010 & ORS 803.045

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

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 Branch 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 ORS 767.025(15), and vehicles which are used exclusively to transport mobile homes, when such vehicles are registered under ORS 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), ORS 802.010, ORS 805.040, ORS 805.045, ORS 805.300 - ORS 805.400 & ORS 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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 821.080 & Ch. 873 (OL 1991)

Stats. Implemented: ORS 803.015

Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

DIVISION 24

ASSEMBLED/RECONSTRUCTED/ ALTERED/DAMAGED VEHICLES

735-024-0010

Previously Damaged Notation Based on Information from Other States — Definitions

As used in this rule and OAR 735-024-0020, the following definitions apply:

(1) "Damaged, Destroyed, Wrecked or Salvaged" means an incident, or occurrence or condition relating to a vehicle that impaired or altered the vehicle from its original state, and:

(a) When these terms appear on a certificate of title or other documents from another jurisdiction, they shall form a basis for determining whether to issue an Oregon title with a notation indicating the vehicle was previously damaged in another jurisdiction;

(b) These terms when used by other jurisdictions do not necessarily carry the same meaning as they do when used in other areas of Oregon law or Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) rules, but shall be construed to be words of similar import.

(2) "Words of Similar Import" means any word, term or phrase that means the same or has the same effect as the terms defined in section (1) of this rule:

(a) Words of similar import may include, but are not limited to: reconstructed; rebuilt; assembled; junk; restored salvage; hulk; or other terms used by other jurisdictions to denote a vehicle that has been damaged, destroyed, wrecked or salvaged;

(b) Words that would not be considered as "words of similar import" include but are not limited to: gray market; non USA; prior police; prior taxi; and bonded.

(3) "Previously Damaged" means that DMV has received some indication from another jurisdiction, that the vehicle was damaged, destroyed, wrecked or salvaged, or words of similar import. The use of this term does not reflect the extent of damage nor to what extent or how well the vehicle may have been repaired.

(4) "Salvage Title," "salvage certificate" and "wrecker's bill of sale" mean documents issued for a vehicle that indicate the vehicle has been damaged, destroyed, wrecked or salvaged or words of similar import. "Salvage title" does not refer to Oregon salvage titles, unless the Oregon salvage title reflects a notation that indicates the vehicle was damaged in another jurisdiction, prior to being titled in Oregon.

(5) "Similar Document" means any report, information, or paperwork that fulfills the same function as the documents listed in section (4) of this rule. Similar documents shall include but are not limited to:

(a) A report or information from a law enforcement agency, the Motor Vehicles Division, or equivalent agency in another jurisdiction, or any other government agency, that indicates a vehicle is damaged, destroyed, wrecked or salvaged, or words of similar import;

(b) A report or information from a government agency of another jurisdiction that the title from the other jurisdiction should have carried a brand or notation of damage to the vehicle;

(c) A report or information from a government agency of another jurisdiction that a salvage title, salvage certificate, wrecker's bill of sale or similar document should have been issued for the vehicle;

(d) A salvage bill of sale, junking certificate, or other document used by other jurisdictions to indicate that a vehicle has been damaged, destroyed, wrecked, or salvaged or words of similar import.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.010, ORS 803.015, ORS 819.016, ORS 821.060 & Sec. 1, Ch. 293, OL 2001

Stats. Implemented: ORS 803.015 & ORS 803.420

Hist.: MV 32-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0570; MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 23-2001, f. 11-9-01, cert. ef. 1-1-02

735-024-0020

Previously Damaged Notation Based on Information from Other Jurisdictions — Use of Notation

(1) When the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) receives an application for

certificate of title for a vehicle from another jurisdiction, DMV shall place a notation that the vehicle has been damaged on any certificate of title and registration card DMV issues for the vehicle when:

(a) The title from the other jurisdiction carries a brand or notation that indicates the vehicle was damaged, destroyed, salvaged or words of similar import; or

(b) DMV receives a salvage title, salvage certificate, wrecker's bill of sale or similar document or information that indicates the vehicle has been damaged.

(2) The notation described in section (1) of this rule need not necessarily use the same wording or notation as was used on the title, salvage title, salvage certificate, wrecker's bill of sale or similar document from the other jurisdiction but shall:

(a) Indicate that the vehicle was previously damaged; and

(b) Indicate the name of the state where the last title or similar document was issued, or if the vehicle was last titled in a country other than the United States of America, shall indicate that the vehicle is from out of the country.

(3) DMV may place a notation as described in sections (1) and (2) of this rule on the certificate of title and registration card when any of the documents referenced in section (1) of this rule are received separate from the application for title.

(4) Except as otherwise provided in sections (5) and (6) of this rule, the notation referenced in sections (1) and (2) of this rule shall be placed on any subsequent Oregon certificate of title and registration card issued for the vehicle.

(5) DMV shall omit, remove or change a notation when:

(a) DMV is provided with information from the originating jurisdiction that indicates that its title incorrectly reflects a brand or notation;

(b) DMV is provided with information from the originating jurisdiction indicating that the jurisdiction would not identify the vehicle as damaged;

(c) DMV is satisfied the notation was placed on the Oregon title in error; or

(d) A subsequent accident or occurrence causes the vehicle to be identified with a different notation such as "totaled."

(6) When DMV receives an application for title and also receives a certificate of title from another jurisdiction that carries a brand or notation, a salvage title, a salvage certificate, a wrecker's bill of sale or similar document, DMV also may require documentation to determine if the vehicle otherwise qualifies as an assembled vehicle, reconstructed vehicle or vehicle replica. If DMV determines the vehicle meets Oregon requirements for an assembled, reconstructed or replica vehicle, DMV shall title the vehicle in accordance with the requirements for those vehicles.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822, & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 803.015

Hist.: MV 32-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0580; MV 32-1991, f. 12-30-91, cert. ef. 1-1-92; DMV 23-2001, f. 11-9-01, cert. ef. 1-1-02

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" is defined in ORS 801.130.

(3) "Brand" means the information placed on a title to indicate there has been an incident or occurrence that may have altered a vehicle, or that the vehicle may not be as originally built. Brands do not:

(a) Indicate to what extent a vehicle was damaged or changed; nor

(b) Indicate whether, to what extent, or how well a vehicle has been repaired or rebuilt.

(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 ORS 820.500 and 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 are dismantled, disassembled, or otherwise in a condition that would require the title to be surrendered to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) for cancellation; and

(e) Follows the frame or unibody of the vehicle for which the title was originally issued.

(5) "Destroyed Vehicle" means a vehicle that was determined to meet the definition in ORS 819.020 prior to September 29, 1991 when that statute was repealed, as evidenced by:

(a) The surrender of the title or primary ownership document to DMV, marked to indicate or together with other information that indicates the document is being surrendered under ORS 819.020; or

(b) The receipt of other information satisfactory to DMV that the vehicle was "destroyed" or otherwise subject to ORS 819.020.

(6) "Dismantle" and "Disassemble" are defined in OAR 735-024-0050.

(7) "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.

(8) "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.

(9) "Primary Ownership Document" is defined in ORS 801.402 and OAR 735-020-0010.

(10) "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.

(11) "Reconstructed Vehicle" is defined in ORS 801.405.

(12) "Replica" is defined in ORS 801.425.

(13) "Salvage Title Certificate" or "salvage title" is defined in ORS 801.454 and issued under ORS 803.140.

(14) "Substantially Alter the Form" is defined in OAR 735-024-0050.

(15) "Totaled vehicle" and "totaled" are defined in ORS 801.527.

(16) "Wreck" is defined in OAR 735-024-0050.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.015

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0040

Application of the Terms Assembled, Reconstructed, Replica and Totaled

(1) As used in OAR Chapter 735, Division 24 administrative rules, all of the following apply to the terms "assembled," "reconstructed" and "replica." The terms include:

(a) Vehicles that when originally built, rebuilt, altered or repaired, meet the statutory definitions of those terms; and

(b) Vehicles that are subject to laws that only allow such vehicles to be titled as such. Vehicles that by law may only be titled as an "assembled" or "reconstructed" vehicle or "replica" include:

(A) Vehicles that were determined to be "destroyed" under ORS 819.020 prior to September 29, 1991;

(B) "Totaled" vehicles as defined under ORS 801.527, where the vehicle meets that definition for reasons other than the theft of the vehicle;

(C) Abandoned vehicles sold under ORS 819.220; and

(D) Vehicles that are wrecked, dismantled, disassembled, or whose form has been substantially altered.

(2) When the terms “assembled” and “reconstructed” apply, except as provided in section (3) of this rule, the certificate of title issued for the vehicle shall carry a notation indicating this.

(3) The term “replica” applies to and shall be noted on the title for vehicles:

(a) Built as replicas from new, reconditioned, or original parts; and

(b) Those that are reconstructed from existing vehicles or parts of existing vehicles, and which otherwise meet the definition of a replica. In these situations, the title and title record shall reflect that the vehicle is a “replica” rather than “reconstructed”.

(4) If a vehicle has been reported to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) as a totaled vehicle, in addition to any notation required under sections (2) and (3) of this rule, the title shall reflect the word “totaled”.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822, & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 803.015

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

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, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0060

Destroyed Vehicles — Responsibility of Parties

(1) Any person who owns, receives or purchases a vehicle that was determined to be “destroyed” under laws in effect prior to September 29, 1991, is required to surrender to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) any title and registration plates for the vehicle, within 30 days of the purchase or receipt of the vehicle, unless the plates, registration and title have already been surrendered. Primary ownership documents may be surrendered in lieu of the title when:

(a) The title has been lost or destroyed;

(b) The title is not available and ownership is being transferred by operation of law; or

(c) The vehicle is not currently covered by a certificate of title, such as a new vehicle.

(2) Unless the “destroyed vehicle” is an abandoned vehicle which was sold under ORS 819.220, or is otherwise wrecked, dismantled, disassembled or substantially altered as defined in OAR 735-024-0050, the person shall provide any subsequent purchaser with a bill of sale that indicates:

(a) The certificate has been surrendered to DMV;

(b) The vehicle is a destroyed vehicle; and

(c) That the vehicle may only be titled as an assembled vehicle, a reconstructed vehicle or a replica.

(3) If the vehicle is an abandoned vehicle which was sold under ORS 819.220, or is otherwise wrecked, dismantled, disassembled, or substantially altered as defined in OAR 735-024-0050, prior to any sale or transfer of the vehicle, or the frame or unibody of the vehicle, the person shall apply for and be issued a salvage title as provided in OAR 735-024-0130.

(4) A “destroyed vehicle” shall not be considered to be a “totaled” vehicle under ORS 801.527, unless there is a subsequent accident or occurrence involving the vehicle, that results in the vehicle meeting the definition of a “totaled” vehicle. If this occurs, then persons would be subject to provisions related to “totaled” vehicles.

(5) In addition to the requirements of this rule, persons engaged in the business of being a vehicle dealer or wrecker, shall be subject to any business related rules and laws that involve “destroyed” vehicles.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.014

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0070

Vehicles that Are 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 (e.g., wrecked, dismantled, 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;

(d) Mobile homes, other than mobile homes that are exempt from title under ORS 820.510; and

(e) Any other vehicle that has been issued a title by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV); or by another jurisdiction.

(2) ORS 819.010 and any related rules apply if the activity described in ORS 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 some other jurisdiction, and those not titled, but which are of the type subject to title.

(3) Except as provided in section (11) of this rule, persons who dismantle, disassemble, wreck or substantially alter the form of a vehicle, shall comply with the provisions of ORS 819.010 and apply to DMV for a salvage title except as provided in ORS 819.016 and OAR 735-024-0130.

(4) Primary ownership documents for vehicles described in section (1) of this rule may be surrendered to DMV, in lieu 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 shall be surrendered to DMV together with the application for salvage title, if a salvage title is required.

(6) The Oregon title shall 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 shall be on DMV's Form 735-6017, "Notice of Vehicle to be Dismantled/Proof of Compliance," if submitted by someone other than a wrecker issued a certificate under ORS 822.110.

(7) Registration cards and registration plates that are required to be surrendered, may be submitted with the title or primary ownership document, or submitted separately to DMV, along with information as to why they are being surrendered.

(8) Vehicles that are subject to this rule shall not be repaired, rebuilt, transferred, or the 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.

(9) 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 or disassembled; and

(c) DMV is satisfied that a salvage title is not required.

(10) The act of wrecking, dismantling, disassembling or substantially altering a vehicle shall not by itself cause a vehicle to be considered a totaled vehicle. Such a vehicle:

(a) Shall be subject to requirements of ORS 819.010 and DMV rules that relate to wrecked, dismantled, disassembled or substantially altered vehicles; and

(b) Shall not be considered totaled, or be subject to requirements that relate only to totaled vehicles, such as having the title reflect the word "totaled," unless the vehicle is determined to be totaled before the vehicle was dismantled, disassembled, wrecked or substantially altered.

(11) In addition to any laws or rules related to a wrecker's business, persons operating within the scope of a wrecker certificate issued under ORS 822.110, are subject to the provisions of this rule, except wreckers may submit registration cards and registration plates as provided in section (7) of this rule, or may, on behalf of DMV, destroy such documents and plates. If a wrecker elects to destroy plates, the wrecker:

(a) Shall make sure that any validating registration sticker is destroyed or rendered unusable such as by cutting the registration sticker; and

(b) Take steps to insure that the plates or plate salvage is disposed of in such a manner, so as to prevent the plates from being used on vehicles.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.014

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0080

Abandoned Vehicles Sold Under ORS 819.220

(1) This rule covers situations where an abandoned vehicle is sold under ORS 819.220.

(2) As used in this rule:

(a) "Authority" means the agency described in ORS 819.140, that has the authority to take abandoned vehicles into custody and to dispose of them;

(b) "Purchaser" means the person to whom the authority sold a vehicle under the provisions of ORS 819.220;

(c) "Wrecker" means a person issued a certificate under ORS 822.110, and may also be a purchaser.

(3) The authority shall:

(a) Comply with the provisions of ORS 819.220; and

(b) Provide the purchaser with Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) Form 735-6017, "Notice of Vehicle to be Dismantled/Proof of Compliance," required under ORS 819.010, when an authority sells a vehicle under ORS 819.220 to someone other than a wrecker. The Form 735-6017 may be obtained from DMV at no charge to the authority.

(4) If the purchaser is someone other than a wrecker, the person shall:

(a) Use one copy of the Form 735-6017 to notify DMV if the purchaser intends to wreck, dismantle, disassemble or substantially alter the form of the vehicle as required under ORS 819.010; and

(b) Submit another copy of the Form 735-6017 to DMV along with the title or primary ownership document (e.g., sheriff's certificate of sale), within 30 days of when the vehicle has been wrecked, dismantled, disassembled or substantially altered, if the vehicle is exempt from salvage title requirements under ORS 819.016 or OAR 735-024-0130.

(5) Wreckers who purchase vehicles under ORS 819.220, shall comply with the provisions of ORS 819.010 as it applies to wreckers, and any other provisions of law or rule that apply to wreckers.

(6) Except as otherwise provided in ORS 819.016 and OAR 735-024-0130, any purchaser shall apply to DMV for a salvage title.

(7) Notwithstanding other provisions of this rule, persons who purchased a vehicle under ORS 819.220 prior to January 1, 1992, shall not be required to apply for salvage title until such time as:

(a) The vehicle is repaired or otherwise operated over the highways, in which case in lieu of applying for a salvage title, persons may apply for a certificate of title showing the vehicle as assembled, reconstructed or a replica;

(b) The vehicle is wrecked, dismantled, disassembled or substantially altered in form; or

(c) Ownership of the vehicle or frame or unibody of the vehicle is transferred.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.220

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0090

Vehicles Determined to Be Totaled Prior to When Salvage Title Provisions Went into Effect — Responsibility of Parties

(1) This rule covers those situations where a vehicle was determined to be a totaled vehicle on or after September 29, 1991, but before the salvage title laws became operative on January 1, 1992.

(2) When the reason for such a vehicle being considered totaled was due to theft, and the loss was covered by an insurer:

(a) A salvage title may be applied for, but shall not be required as long as the vehicle remains unrecovered;

(b) A salvage title shall not be required for a previously stolen vehicle that is recovered in a condition that would not otherwise make the vehicle qualify as totaled;

(c) Except as otherwise provided by Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) rule, a salvage title shall be required for a stolen vehicle that is recovered on or after January 1, 1992, if the vehicle recovered is in a condition that would otherwise cause the vehicle to be considered totaled.

(3) Except as provided in ORS 819.016 and OAR 735-024-0130 and this section, any person who receives or purchases a vehicle that

was determined to be totaled on or after September 29, 1991, shall apply for salvage title. However, persons who received or purchased a totaled vehicle, prior to January 1, 1992:

(a) Shall not be required to apply for salvage title as long as the vehicle or frame or unibody is not transferred, or the vehicle is not otherwise wrecked, dismantled, disassembled or substantially altered in form; and

(b) Shall be required to apply for salvage title prior to any transfer of the vehicle or frame or unibody.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822, & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.040

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0100

Totalled 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 Branch 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, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.040

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0110

Totalled Vehicles — Insurer's Notification to DMV

(1) This rule relates to any vehicle that meets the definition of a totaled vehicle because the vehicle was 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 vehicle.

(2) The insurer shall notify the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) as required by ORS 819.014 and 819.016:

(a) When an insurer obtains and surrenders a title on a totaled vehicle, the insurer shall notify DMV by making application for salvage title under OAR 735-024-0140;

(b) When an insurer does not obtain the title the insurer shall 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 if known;

(C) The name of the insurer who is submitting the notice; and

(D) The insurer's claim number, address or any other information, if such information would be necessary in order for the insurer to locate their file, should DMV need to contact them.

(3) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall accept a copy of the insurer's notice to registered owner as notice to DMV, as long as that notice contains the information required in section (2) of this rule.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.040

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0120

Totalled Vehicles — Persons Who Receive or Purchase

(1) Anyone 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 Driver and Motor Vehicle Services Branch of the Department of Transportation (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, shall 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 OAR 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;
- (b) Transfer the vehicle or the frame or unibody of the vehicle;

or

(c) Use the frame or unibody in repairing or constructing another vehicle.

Stat. Auth.: ORS 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 819.010 - ORS 819.040

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

735-024-0130

Salvage Title — Vehicles Subject and When/Who Required to Apply

(1) An Oregon salvage title is an ownership document that shall be used to assign interest and make an odometer disclosure on a vehicle (or vehicle salvage), from the time that the certificate of title is required to be surrendered to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV), until:

(a) The vehicle is repaired, rebuilt or is otherwise eligible for and issued a certificate of title; or

(b) It is determined that all of the following apply:

- (A) The vehicle will not be rebuilt or repaired;
- (B) Ownership of the vehicle or frame or unibody of the vehicle will not be transferred; and
- (C) The frame or unibody of the vehicle will not be used in repairing or constructing 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) Class I and III all-terrain vehicles required to be titled and registered by DMV;

(c) Snowmobiles required to be titled and registered by DMV;

(d) Mobile homes except mobile homes exempt from title under ORS 820.510; and

(e) Any other vehicle that has been issued a certificate of title by DMV, or some other jurisdiction.

(3) Except as provided in section (4) of this rule, application shall be made for a salvage title on any 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;

(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 sold under the provisions of ORS 819.220.

(4) As provided in ORS 819.016 and section (1) of this rule, application for salvage titles is not required if the person does not intend to rebuild or repair the vehicle, to transfer the vehicle or frame or unibody, or to use the frame or unibody for repairing or constructing another vehicle. Persons who do not apply for salvage title, shall make known their intent when surrendering the title or primary ownership document, as otherwise required by law and the rules of DMV. All of the following apply to "intent":

(a) If at the time the title or primary ownership documents are required to be surrendered, a final determination as to the disposition of the vehicle or frame or unibody has not been made, DMV shall construe that there may be some intent to repair, rebuild or transfer, and shall require a salvage title to be applied for;

(b) Any action to register or to otherwise operate the vehicle over the highways, other than the temporary operation of the vehicle with a trip permit issued for a period not to exceed ten (10) days, shall be construed to mean the vehicle has or will be rebuilt or repaired, regardless of the amount of work done to the vehicle;

(c) "Transfer" means any transfer of interest in the vehicle, or the frame or unibody of the vehicle, except in the case of a transfer of interest in a vehicle that has been wrecked, disassembled, dismantled or substantially altered as defined in ORS 735-024-0050, and where all of the following apply:

(A) The person who wrecked, disassembled, dismantled or substantially altered the vehicle complies with ORS 819.010;

(B) Proof of compliance is issued under ORS 819.040;

(C) The vehicle is sold to a person engaged in salvage and who holds a wrecker certificate issued under ORS 822.110; and

(D) The person engaged in salvage crushes, compacts or shreds the vehicle including the frame or unibody of the vehicle.

(5) Where a salvage title is required, application shall 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 shall 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;

(B) The owner shall 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;

(c) By any person who purchases an abandoned vehicle sold under ORS 819.220;

(d) By any person who wrecks, dismantles, disassembles or substantially alters the form of a vehicle, 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 a salvage title in his or her name under OAR 735-024-0170; or

(B) Provisions of section (4) of this rule apply.

(e) 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;

(B) Provisions of section (4) of this rule apply; or

(C) A totaled vehicle was purchased prior to 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.

(6) The term "receive" as used in section (5) 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.

(7) Odometer disclosures shall be 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 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 803.140, ORS 819.010 - ORS 819.040 & 49 CFR Part 580

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

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 Branch 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, ORS 803, ORS 819, ORS 820, ORS 821, ORS 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 Branch 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, ORS 803, ORS 819, ORS 820, ORS 821, ORS 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 Branch 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, ORS 803, ORS 819, ORS 820, ORS 821, ORS 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 salvage title shall be retained by the owner as long as the vehicle or frame or unibody is still subject to salvage title requirements as provided in OAR 735-024-0130, except when ownership is transferred. Upon transfer, the salvage title shall be assigned to the new owner.

(2) If the vehicle is wrecked, dismantled, disassembled, or substantially altered in form, and the parts transferred separately:

(a) The salvage title shall 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 shall be surrendered to the Driver and Motor Vehicle Services Branch of the Department of Transportation (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 shall 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, wrecker, or insurer shall not be required to apply for salvage title in their name if ownership of a vehicle or frame or unibody for which a salvage title has been issued is transferred to a dealer or wrecker who holds a certificate issued under ORS 822.020 or 822.110, or to an insurer. This section shall not prohibit a dealer, wrecker 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 wrecker shall 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 form, that shall accompany and remain with the salvage title. If ownership is again transferred, any separate assignment documents, or certified copies thereof, shall be given to the new purchaser with the salvage title.

(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 wrecker who holds a certificate issued under ORS 822.020 or 822.110, or an insurer, that person shall be 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;

(c) The purchaser shall make application for salvage title as provided 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 802.010, ORS 803, ORS 819, ORS 820, ORS 821, ORS 822 & Ch. 820 & 873, OL 1991

Stats. Implemented: ORS 803.140

Hist.: MV 32-1991, f. 12-30-91, cert. ef. 1-1-92

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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 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

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 in federal rules (49 CFR, Part 580) for the purpose of odometer disclosure.

(3) "Seller" refers to the transferor as defined in ORS 803.102 and in federal rules (49 CFR, Part 580) for the purpose of odometer disclosure.

(4) "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.

(5) "Odometer Reading" means the mileage indicated on the odometer, excluding any tenths of a mile or kilometer.

(6) "Odometer Disclosure" is a written statement which contains 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. Other information also may be required by rule to be on the disclosure, depending on the type of transaction.

(7) "Conforming Title" means a certificate of title or salvage title issued by any state, which contains spaces for odometer information required by federal rules (49 CFR, Part 580). Any Oregon title or salvage title issued on or after January 1, 1992, is a conforming title.

(8) "Nonconforming Title" means a certificate of title issued by any state, which does not contain spaces for odometer information required under federal rules (49 CFR, Part 580). Any Oregon title issued prior to January 1, 1992, is a nonconforming title.

(9) "Secure Form" refers to an odometer disclosure and reassignment form or a power of attorney form that includes odometer information, issued by the Driver and Motor Vehicle Services Branch of the Department of Transportation or any other state, which 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.120 - ORS 803.126 & 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

735-028-0010

Vehicles Exempt from Odometer Disclosure Requirements

(1) In addition to the exemptions under ORS 803.102, the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall not require odometer disclosures for the following:

(a) Any transfer of a new vehicle prior to its first transfer for purposes other than resale;

(b) Snowmobiles;

(c) Class I all-terrain vehicles;

(d) A vehicle which has been reported stolen, and has not been recovered;

(e) Any vehicle not equipped with an odometer at the time of manufacture;

(f) A vehicle covered by a salvage title, if:

(A) The odometer has been destroyed, removed or is otherwise unreadable; or

(B) The frame is transferred separately from the odometer.

(g) Any vehicle that has been wrecked, dismantled, disassembled or substantially altered, if all of the following apply:

(A) The provisions of ORS 819.010 have been complied with and DMV has issued proof of compliance under ORS 819.030;

(B) The vehicle is sold, conveyed or otherwise assigned to a person who holds a wrecker certificate issued under ORS 822.110,

and who crushes, compacts or shreds the vehicle including the frame or unibody; and

(C) The vehicle is therefore exempt from having to be covered by a salvage title, and the assignment of interest to the wrecker is exempt from the definition of "transfer" under OAR 735-024-0130.

(2) ORS 803.102 exempts any vehicle ten years of age or older. For the purpose of determining the age of a vehicle for odometer disclosure purposes, DMV shall:

(a) Use the model year assigned by the manufacturer, or in the case of an assembled, reconstructed or replica vehicle, use the model year shown on the title; and

(b) Use January 1 of that year as the starting point in determining the age of the vehicle. For example, a 1989 vehicle shall be considered ten (10) years old on January 1, 1999.

(3) DMV may require applicants to certify eligibility for, or submit evidence of, exemption under ORS 803.102 or this rule when DMV cannot determine if the vehicle is eligible for exemption.

Stat. Auth.: ORS 184.616, ORS 803.045 & ORS 803.102

Stats. Implemented: ORS 803.045 & ORS 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

735-028-0020

Odometer Disclosure — First Registration by Current Owner or First Oregon Title with No Change in Ownership

(1) The odometer disclosure requirements in this rule apply to the following, unless exempted by OAR 735-028-0010:

(a) An application for the first Oregon title when there is no transfer of ownership. Examples include, but shall not be limited to:

(A) A vehicle titled in another state to the same person making application for an Oregon title; and

(B) A vehicle being titled for the first time as an assembled vehicle and the person making application for title is the same person who is named on the title for the vehicle chassis.

(b) An application for Oregon registration on a vehicle already titled in Oregon to the person making application. An example is a vehicle for which registration has been voluntarily canceled because the vehicle was not drivable and the owner is now applying for a new set of plates and vehicle registration.

(2) An odometer disclosure under this rule shall:

(a) Be made on a form provided by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) or on any form acceptable to DMV, but need not be made on a secure form;

(b) Be made by the owner of the vehicle;

(c) Contain all of the following:

(A) The current odometer reading, excluding tenths of a mile or kilometer;

(B) The date of the reading;

(C) Vehicle information sufficient for DMV to identify the vehicle;

(D) A certification stating, that to the best of the person's knowledge, the odometer reading reflects the actual mileage, is in excess of the designed mechanical odometer limits, or does not reflect the actual mileage; and

(E) The signature of the person making the disclosure.

Stat. Auth.: ORS 184.616 & ORS 803.120

Stats. Implemented: ORS 803.045 & 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 735-110-0420; 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

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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 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 and Messages on Oregon Titles

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall record on the title or salvage title the odometer reading disclosed upon transfer and the date of the disclosure, if the transfer is subject to odometer disclosure requirements by statute or rule.

(2) The odometer reading recorded on the title or salvage title shall be the most recent odometer reading received by DMV on a disclosure accompanying the transaction, except:

(a) DMV may use a disclosure other than the most recent in situations including, but not limited to:

(A) The most recent disclosure not containing all of the information required on a disclosure;

(B) DMV having reason to believe that the most recent disclosure does not accurately reflect the odometer reading to the vehicle; or

(C) A title is surrendered to DMV for correction of an incorrect reading under section (4) of this rule.

(b) If the vehicle is of the age and type subject to odometer disclosure requirements, but the transfer is not subject to odometer disclosure (e.g., removing a security interest holder), the reading recorded shall be:

(A) The mileage disclosed by the owner, if the owner makes a disclosure at the time of transfer (even though not required to); 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.

(c) The reading recorded shall be the mileage disclosed by the buyer, if DMV accepts the application without a disclosure from the seller, as provided in OAR 735-028-0090.

(3) 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.

(4) DMV may accept a title or salvage title for correction of the recorded odometer reading:

(a) Within 90 days of the issuance of the title or salvage title when a buyer or seller has made an incorrect odometer disclosure upon transfer of title and submits a corrected disclosure statement prior to any subsequent transfer of interest; or

(b) More than 90 days after the title is issued if there has been no subsequent transfer of title requiring odometer disclosure since the erroneous disclosure was recorded, if:

(A) DMV recorded the mileage or date incorrectly; or

(B) The request for correction is supported by evidence satisfactory to DMV that the original disclosure was in error. Such evidence may include, but shall not be limited to, service records with odometer readings and dates, or odometer disclosures made by the owner at renewal or at other times required by rule.

(5) DMV shall not correct the 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.

(6) DMV shall omit the odometer reading from the title or salvage title at any subsequent transfer when a vehicle becomes exempt from odometer disclosure requirements due to age or other reasons.

(7) If the 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 shall record one of the following messages on the title or salvage title, in addition to the odometer reading and date:

(a) "Exceeds mechanical limits," if the odometer disclosure indicates the odometer reading is in excess of the designed mechanical limits of the odometer;

(b) "Not actual," if the odometer disclosure indicates the odometer reading does not reflect the actual mileage. "Not actual" shall be used if "not actual" and any other message both apply. "Not actual" also may be placed on the title by DMV if the odometer reading disclosed at transfer is lower than any previous 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.

(8) Regardless of the contents of any odometer disclosure it may receive, DMV may add any odometer message to the title or salvage title it believes appropriate, if DMV is satisfied that:

(a) The odometer reading does not reflect the actual mileage; or

(b) The odometer reading reflects mileage in excess of the designed mechanical limits of the odometer.

(9) If DMV receives an Oregon title or salvage title, or a title or salvage title from another state which contains a message like or similar to one of the messages in section (7) of this rule in support of an application for Oregon title, DMV shall:

(a) Record, on any title or salvage title DMV may issue for the vehicle, an odometer message like or similar to the one shown on the title presented to DMV; or

(b) Record a different message on any title or salvage title DMV may issue for the vehicle, if DMV is satisfied a different message would more accurately reflect the degree to which the odometer reading represents the actual mileage. For example, if DMV receives a disclosure that indicates the odometer reading is not the actual mileage, DMV shall use the message "not actual" without regard to any message on the previous title.

(10) If the message "not readable" appears on any title or salvage title issued by DMV, the message "not actual" shall be used if the odometer is repaired or replaced and the odometer cannot be reset to the exact actual mileage.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

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

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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 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 resold 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.120 thru ORS 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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.120 thru ORS 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 Branch 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, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.120 - ORS 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) If a vehicle is subject to odometer disclosure and there has been a transfer of interest as defined in OAR 735-028-0050, an odometer disclosure shall be required for issuance of title.

(2) Except as otherwise provided in this rule, odometer disclosures required under this rule shall conform to the provisions of OAR 735-028-0050 through 735-028-0080, including but not limited to such things as acceptable forms, content, and who is required to complete and sign the disclosure.

(3) 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 Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall require a disclosure:

(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.

(4) 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 (3) 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.

(5) 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 (3) 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) The transfer occurred before July 1, 1992;

(d) DMV is satisfied a disclosure(s) required under section (3) of this rule is otherwise not available;

(e) 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 (7) of this rule;

(f) 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.

(6) When accepting a disclosure from the buyer or accepting a transfer where only one of the two disclosures required under section (3) 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, but may not be limited to, a statement that a disclosure from the seller is not available; or

(B) If one of the two disclosures required under section (3) 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 (6)(a) of this rule, DMV may require any or all of the following:

(A) Evidence of the buyer's attempt to get the required disclosure from the seller, or evidence the seller no longer is in business;

(B) A statement, certification or other evidence from the seller as to why the seller cannot provide the required disclosure; 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 shall accept a certification from the buyer as provided in subsection (6)(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 additional evidence or information, such as provided in subsection (6)(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).

(7) 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 shall consider any Oregon wrecker 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.

(8) In addition to any information or documents required under section (6) of this rule, and except as otherwise provided in this rule, disclosures accepted from buyers shall 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.

(9) 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, but shall not be limited to:

(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 (6) 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) Examples of situations where DMV shall not accept a disclosure on alternative forms include, but shall not be limited to:

(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.

(10) 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.

(11) 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.

(12) 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 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.120 & 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

735-028-0100

Expedite Title and Registration Services for Odometer Disclosure Problems

(1) As used in ORS 803.207 and this rule, "expedited service" for title and registration transactions:

(a) Means the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) gives a particular title or registration transaction priority over similar transactions received by DMV on or about the same date, resulting in issuance of the title or registration sooner than such documents otherwise would be issued;

(b) Applies only when the need for the service is due to problems related to odometer disclosure requirements; and

(c) Applies to an application for registration only if application for title is also made.

(2) The fee for expedited service shall be \$10 per title.

(3) In determining if the need for expedited service relates to odometer disclosure requirements, DMV shall determine if:

(a) The vehicle is of the age and type subject to odometer disclosure; and

(b) A new Oregon title is needed within a short time period:

(A) In order for persons to comply with odometer disclosure requirements, and also meet requirements for providing title to the purchaser or perfecting a new security interest within specified time periods (e.g., the title is lost, and a replacement must be issued before dealer can provide title to new purchaser or submit title to DMV for perfection of new purchaser's security interest). In the case of a vehicle purchased by a dealer for the purpose of resale, this section may apply regardless of whether the vehicle has been re-sold at the time of application;

(B) Due to the need for an out-of-state purchaser to first obtain title in Oregon in the purchaser's name because another state will not accept a disclosure used in conjunction with an Oregon title.

(4) Situations where DMV shall consider providing expedited service include, but shall not be limited to, the following examples:

(a) A dealer has purchased a vehicle and is applying for a replacement title on behalf of the seller, using a secure power of attorney as provided in OAR 735-028-0080;

(b) Both Parts A and B of a secure power of attorney have been used with an Oregon title, and the vehicle has been sold into a state that will not allow such transfers, resulting in the need for the title to be transferred in Oregon first.

(5) Situations where DMV shall not provide expedited service under this rule include, but shall not be limited to the following examples:

(a) Any transaction covering a vehicle of an age or type not subject to odometer disclosures;

(b) Any transaction covering a vehicle not currently titled in Oregon, unless there has been a transfer by operation of law under Oregon law (e.g., a vehicle sold by sheriff under Oregon statute), and

the transaction otherwise qualifies for expedited service under this rule;

(c) Any situation where there has been no transfer of interest and where there also is no pending transfer of interest of the type that would require an odometer disclosure.

(6) DMV shall not expedite a title when questions of vehicle ownership exist, or requirements for title or registration have not otherwise been met.

(7) When a request for expedited service accompanies a transaction, the request shall be in writing, and shall be submitted by mail or in person to DMV's Salem Headquarters Office, 1905 Lana Avenue, Salem, Oregon 97314, in an envelope marked "expedite" on the outside, and shall include:

(a) A written explanation of why the transaction needs to be expedited;

(b) The application for title, and where applicable, registration, and all requirements for issuance, including all fees required (e.g., title fee, registration fees, plate fees); and

(c) The fee for expedited service.

(8) DMV may expedite a transaction that qualifies for expedited service but was originally submitted without an expedite request, if DMV first receives:

(a) The fee for expedited service;

(b) A written explanation of why the transaction needs to be expedited; and

(c) Information sufficient for DMV to locate the transaction in process. Required information may include, but may not be limited to, the date and place the transaction was submitted, and the vehicle identification number, plate number and names of persons shown on the application.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.207 & 49 CFR Part 580

Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92

735-028-0110

Control of Secure Forms — Definitions, Distribution and Fees

All of the following apply to the control and distribution of the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) secure power of attorney and secure odometer disclosure/reassignment forms:

(1) As used in OAR 735-028-0110 through 735-028-0150, the following definitions apply:

(a) "Vendor" means the person or firm authorized by DMV to print secure forms and to sell them to distributors and DMV;

(b) "Forms distributor" or "distributor" means a person, firm or other entity who has been approved by DMV as provided in this rule to distribute forms to end users;

(c) "End user" means a person or firm routinely involved in the transfer of ownership of vehicles. The term applies to vehicle dealers, insurers, lenders and wreckers, and shall apply to any other person or firm routinely involved in the transfer of ownership of vehicles. "End user" does not refer to an individual or business transferring ownership of their own vehicles on an occasional basis;

(d) "Application for approval" or "application" means a written application, on a form provided by DMV, to become an approved forms distributor;

(e) "Approval" means a letter or form issued by DMV which indicates the applicant has been approved by DMV as a forms distributor.

(2) Secure forms may be distributed to end users by:

(a) A forms distributor as defined in section (1) of this rule; or

(b) The Oregon DMV. DMV shall not routinely distribute forms directly to end users. DMV may provide for direct distribution of secure forms in situations which include, but are not limited to:

(A) DMV choosing to provide forms directly to forms distributors rather than have the distributors purchase forms from the vendor; or

(B) There are not enough forms distributors to meet distribution needs.

(3) DMV may directly provide secure forms on an individual basis. Providing forms on an individual basis includes, but is not limited to, providing a form to a person to complete a transaction involving the person's own vehicle or providing the form in conjunction with a transfer submitted to DMV. Forms DMV provides under this section shall be provided at no fee.

(4) A fee, established by DMV and revised as necessary, shall be charged for forms provided by a forms distributor or by DMV to end users:

(a) The fee for forms provided by DMV to distributors shall be the cost of the forms to DMV plus the cost of shipping and handling;

(b) The fee determined by DMV for forms provided to end users shall include the direct and indirect costs associated with providing the service, as well as a reasonable profit for the distributor. Costs considered in determining the fee shall include, but may not be limited to, the cost of:

(A) Purchase of forms from the vendor or DMV;

(B) Distribution;

(C) Storage and any costs related to maintaining the forms in a secure manner;

(D) Maintaining records and providing DMV with information on forms distribution and projected inventory needs; and

(E) Instruction and training to end users on the use and control of secure forms and notice of changes in the fee for secure forms.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, 815.405, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.124 & 49 CFR Part 580

Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0120

Control of Secure Forms — Distributor Application and Approval

(1) An applicant shall be designated a distributor of secure forms upon approval by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) of an application submitted as provided in section (2) of this rule.

(2) All applications for approval to become a forms distributor shall be submitted by the applicant in writing, on a form furnished by DMV, to DMV's headquarters office, 1905 Lana Avenue, Salem, OR 97314.

(3) DMV shall notify applicants of approval or disapproval in writing:

(a) DMV shall limit the number of forms distributors to no more than five, and may limit the number further if the anticipated forms usage does not warrant that many distributors;

(b) If DMV receives more applications for approval than there is a need for distributors, DMV shall in considering denial or approval, give priority to the applicant whose application was complete, accurate and received first.

(4) Approval shall be valid until terminated by DMV or the distributor as provided in OAR 735-028-0140.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.124 & 49 CFR Part 580

Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0130

Control of Secure Forms — Responsibilities of Forms Distributors and End Users

All of the following apply to a person or firm designated a forms distributor under OAR 735-028-0120:

(1) Distributors shall purchase the forms either from the vendor or from the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV), as specified by DMV.

(2) Distributors shall provide secure forms only for the use of end users as defined in OAR 735-028-0110.

(3) Distributors shall control the forms without restriction to any end user upon receipt of payment.

(4) Distributors shall control the storage and distribution of the forms, maintain records on individual form numbers sold and provide DMV with reports listing:

(a) The name and address of all persons or firms to whom forms were provided;

(b) The starting and ending control numbers and total quantity of forms purchased by each end user during the report period; and

(c) The business certificate number assigned by DMV, if the end user is a certified dealer.

(5) Reports provided to DMV by distributors under section (4) of this rule shall be provided on a quarterly basis for each three-month period ending March 31, June 30, September 30, and December 31. Each report shall be furnished to DMV by the end of the month following the period covered by the report (e.g., the report for the period ending March 31 shall be provided to DMV no later than April 30).

(6) Distributors shall, upon arrival of forms from the vendor or DMV, immediately check the forms to determine if:

(a) The forms are damaged;

(b) There are any problems with form printing, quality or construction; or

(c) There are any control numbers out of sequence or missing.

(7) Distributors shall immediately notify DMV if:

(a) Any problem described in section (6) of this rule exists; or

(b) There are any delays in receiving the forms from the vendor, beyond five business days of when the vendor receives payment from the distributor.

(8) Distributors shall follow the instructions of DMV for handling any problems reported to DMV under section (7) of this rule.

(9) Distributors shall allow DMV to inspect the premises where the forms are maintained, and any records maintained for the control and distribution of the forms, to insure that adequate controls, records and service levels are being maintained and the distributor is meeting all the requirements of this rule.

(10) Distributors shall purchase the forms in quantities which shall not be fewer than 10,000 forms at any one time, nor fewer than 50,000 forms in any 12-month period.

(11) Distributors shall charge end users to whom the forms are distributed the fee determined by DMV under OAR 735-028-0110. Costs incurred by the distributor or DMV for special services requested by an end user (i.e., expedited handling, express mail) and not attributable to the distributor's own delays, may be added to the standard fee charged for the forms provided to that end user.

(12) Distributors shall provide end users with instruction and training on the use, control and fees for the forms. Instructions on the control of the forms shall include information that the forms may only be used by the end user, and that blank forms may not be sold or otherwise provided to other parties.

(13) Nothing in this rule shall prevent a distributor from authorizing another party to perform the duties of the distributor under this rule.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0140

Control of Secure Forms — Termination of Forms Distributor Approval

(1) A forms distributor approval may be terminated:

(a) Upon 60 days written notice from the distributor to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV); or

(b) Upon written notice from DMV to the distributor. DMV may terminate the distributor's approval as provided in OAR 735-028-0110 for failure of the other party to perform the duties of the distributor.

(2) When approval is terminated under this rule, the distributor shall:

(a) Purchase no more forms from the vendor or DMV; and

(b) Make arrangements with DMV, as provided in section (3) of this rule, for the disposal of any remaining forms in the distributor's inventory.

(3) Upon termination of approval, the terminated distributor shall, at the option of DMV:

(a) Sell any remaining forms in the distributor's inventory to end users; or

(b) Return any unsold forms to DMV as provided in this subsection:

(A) If approval is terminated by DMV with less than 60 days written notice, DMV shall purchase any remaining forms from the distributor at the price paid by the distributor;

(B) If approval is terminated by DMV with 60 days or more written notice, DMV shall not be obligated to purchase any remaining forms from the distributor;

(C) If approval is terminated by the distributor, DMV shall not be obligated to purchase any remaining forms from the distributor.

(4) DMV may terminate a distributor's approval if another party authorized by the distributor under OAR 735-028-0130(12) fails to perform the duties of the distributor.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

735-028-0150

Control of Secure Forms — End User Responsibilities

An end user who purchases forms from a forms distributor or the Driver and Motor Vehicle Services Branch of the Department of Transportation:

(1) Shall only use the forms 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.

(2) Shall not provide the forms to other parties except as required to complete a transfer of a vehicle as described in section (1) of this rule.

(3) Shall not sell the forms to other parties.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 803.015, ORS 803.045, ORS 803.050, ORS 803.065, ORS 803.092, ORS 803.094, ORS 803.097, ORS 803.102, ORS 803.120, ORS 803.122, ORS 803.124, ORS 803.126, ORS 803.140, ORS 803.207, ORS 803.370, ORS 803.475, ORS 805.120, ORS 821.060, ORS 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.124 & 49 CFR Part 580
Hist.: MV 18-1992, f. 12-21-92, cert. ef. 1-1-93

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 & ORS 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 Branch 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 & ORS 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 Branch 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 un-receipted 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.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 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

DIVISION 32

REGISTRATION PLATES AND FEES

735-032-0000

Replacement and Duplicate Registration Plates

(1) For the purpose of this rule the following definitions shall 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 Branch of the Department of Transportation (DMV) for replacement or duplicate plates.

(3) To obtain replacement or duplicate plates the vehicle owner shall make application to DMV and shall:

(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 shall determine whether the plates issued shall be duplicate or replacement plates. In most cases, DMV shall issue replacement plates. Examples of situations where duplicate plates may be issued include:

(a) The last plates issued to a vehicle were Amateur Radio Operator registration plates, as provided for in ORS 805.200(5). These plates contain the official amateur radio call letters of the person to whom the plates are issued;

(b) The last plates issued to a vehicle were customized registration plates as provided for in ORS 805.200(8). These plates contain the number or letter sequence chosen by the applicant; and

(c) Elected official registration plates as provided for in ORS 805.200(7) that are lost, destroyed or mutilated.

(5) When the registration plate issued to a mobile home under ORS 820.500(6) is lost, destroyed or mutilated, DMV shall issue duplicate plates to applicants who qualify.

Stat. Auth.: ORS 802.010, ORS 803.530, ORS 803.570, ORS 805.200 & ORS 820.500

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

735-032-0010

Plate Manufacturing Fee

(1) As provided in ORS 803.570 the Driver and Motor Vehicle Services Branch of the Department of Transportation shall charge a fee to cover the cost of manufacturing a registration plate(s). This fee shall be charged each time a plate(s) is issued, except as otherwise provided by law.

(2) The fee shall be:

(a) \$2.00 if a single plate is issued; or

(b) \$3.00 if two plates are issued.

Stat. Auth.: ORS 184.616 & ORS 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

735-032-0020

Plates Considered Void

(1) Registration plates surrendered to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall be considered void and shall not be used to register other vehicles:

(a) This includes registration plates:

(A) Surrendered due to cancellation, revocation or suspension of the registration;

(B) Issued by other jurisdictions and surrendered when the vehicle to which the plates are assigned is titled or registered in Oregon;

(C) Surrendered when the vehicle to which the plates are assigned is wrecked, dismantled, disassembled, substantially altered or destroyed; and

(D) Surrendered when the vehicle registration or plate type changes.

(b) This does not include situations where DMV determines the plates were surrendered in error.

(2) When a wrecker issued a certificate under ORS 822.110 comes into possession of a destroyed vehicle and the registration plates issued to that vehicle, the plates shall be considered void and shall not be used to register or operate any other vehicle.

Stat. Auth.: ORS 802.010, ORS 803.210, ORS 803.380, ORS 805, ORS 809, ORS 819.010 - ORS 819.030 & ORS 822.100 - ORS 822.145

Stats. Implemented: ORS 809.080 & ORS 809.110

Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0320

735-032-0030

Display of Temporary Registration Permits

(1) Except as otherwise provided in this rule temporary registration 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) Temporary registration 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 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 I 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 temporary registration 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) Temporary registration 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, ORS 803.615, ORS 803.625, ORS 803.650 & ORS 803.655

Stats. Implemented: ORS 803.635

Hist.: MV 1-1989, f. & cert. ef. 1-3-89

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, ORS 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) The provisions of this rule apply to an increase in registration fees.

(2) When application is made for renewal of registration for a registration period that begins prior to a fee increase (e.g., September expiration plates which are renewed for a period beginning October 1, 1993, and the fee increase takes effect January 1, 1994), the applicant shall pay the registration renewal fee in effect before the fee increase.

(3) When application is made for registration or renewal of registration for a period beginning on or after a fee increase (e.g., December expiration plates which are renewed for a period beginning January 1, 1994, and the fee increase takes effect January 1, 1994), the applicant shall pay the increased fees regardless of the date the payment is made.

Stat. Auth.: ORS 184.616

Stats. Implemented: ORS 803.420

Hist.: MV 10-1993, f. 10-22-93, cert. ef. 11-4-93

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 in under OAR 735-034-0005:

(1) A "trip permit agent" or "agent" is an entity designated by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to issue trip permits on behalf of DMV.

(2) "Entity" is a person, agency, or business and includes a federal, state, county or municipal agency.

(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.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.600 – ORS 803.650 & ORS 806.080

Stats. Implemented: ORS 803.600

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

735-034-0005**Requirements for Designation as a Trip Permit Agent**

Unless otherwise designated as an agent by statute or administrative rule, an entity may become a trip permit agent if:

(1) The entity enters into an agreement with DMV to be designated as a trip permit agent;

(2) The entity agrees to abide by all Oregon statutes and DMV rules regarding the issuance and sale of trip permits; and

(3) DMV, in its judgment, determines it is in the interest and convenience of the motoring public to approve the entity as a trip permit agent.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 190.110, ORS 803.600 — ORS 803.650 & ORS 806.080

Stats. Implemented: ORS 803.600

Hist.: DMV 14-2001, f. & cert. ef. 8-13-01

735-034-0010**Procedures for Issuance of Trip Permits by a Trip Permit Agent**

(1) A trip permit agent shall comply with the following requirements:

(a) Unless otherwise authorized in writing by DMV, a trip permit agent shall pay for trip permits in advance;

(b) Upon the issuance of a trip permit an agent shall legibly complete each trip permit 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 shall be entered 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;

(D) The written signature of the person issuing the permit. This shall include at least the person's full first and last name;

(E) The issuing agent's identifying number if one has been assigned by DMV;

(F) Date information (e.g., effective date, expiration), as shown on the permit form;

(G) For a registration weight trip permit, the registration weight of the vehicle.

(c) For a light vehicle trip permit, the agent shall require the purchaser to sign a certification stating:

(A) The purchaser has not purchased trip permits exceeding 120 days for the vehicle within the last 12 months;

(B) The insurance company name and policy number; and

(C) 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.

(d) For a recreational vehicle trip permit, the agent shall require the purchaser to:

(A) Provide proof of ownership as described in OAR 735-034-0050;

(B) Sign the certificate on the permit, stating that the purchaser has not purchased trip permits exceeding 10 days for the vehicle within the last 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.

(e) The agent shall send DMV's copy of the permit to DMV within five days of the date the permit is issued;

(f) An agent shall not loan, transfer or assign a trip permit to any other person.

(2) Any alteration of the permit information shall void the permit:

(a) When a trip permit is voided, the agent shall return the purchaser's copy and DMV's copy to DMV within five 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 shall state the reason; and

(b) If DMV is satisfied that a prepaid permit was not used for the operation of a vehicle, DMV shall refund the prepaid permit fee to the agent.

(3) Upon an agent's written request, DMV will refund the fee amount for each unissued prepaid permit.

(4) Upon DMV's written request, an agent shall immediately cease issuing permits and immediately return all unused trip permits to DMV. DMV will issue a refund to the agent for any unused prepaid permits returned to DMV.

(5) DMV may revoke an agent's authority to issue permits at any time DMV determines it is no longer in the interest and convenience of the motoring public or a change in state or federal law or regulation prohibit the designation.

(6) A trip permit agent's failure to comply with the provisions of this rule may result in the revocation of the agent's authority to issue trip permits.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.600 – ORS 803.650 & ORS 806.080

Stats. Implemented: ORS 803.600

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

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, ORS 803.600 - ORS 803.645 & ORS 805.300 - ORS 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, ORS 803.030, ORS 803.600 - ORS 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 definitions in OAR 735-030-0030 and the provisions of ORS 803.600 apply to this rule.

(2) Trip permits shall be written for consecutive days.

(3) "Registration weight trip permits" shall:

- (a) Only be issued to vehicles that are fully registered or proportionally registered (Oregon or non-Oregon based) in Oregon;
- (b) Only be issued to motor vehicles. This subsection applies whether or not the vehicle is being operated by itself or in combination with other vehicles. For a combination of vehicles, only the motor vehicle used to tow or transport the other vehicle(s) shall require a permit;

(c) Only be required if the combined weight of the entire combination of vehicles exceeds the total registration weight for which the vehicles are registered;

(d) Not be required if the combined weight is over 105,500 pounds and the vehicle(s) is operating under a variance permit issued under ORS 818.200; and

(e) Not be required for the purpose of towing the person's own commercial fishing boat, if the combined weight of the combination of vehicles is 15,000 pounds or less, regardless of whether:

- (A) The trailer is registered by weight; or
 - (B) The combined weight exceeds the registration weight of the trailer, or the total registration weight of the combination of vehicles.
- (4) All of the following apply to "heavy motor vehicle trip permits" and "heavy trailer trip permits":

(a) The permits shall only be issued to vehicles which are not registered at all, or are not registered for use in this state; and

(b) The permits shall cover operation of a single, unregistered vehicle. For example:

(A) If both the truck and trailer are unregistered for Oregon, and not covered by reciprocity, a permit shall be required for each vehicle;

(B) If either the truck or trailer is registered, but the other is not, a permit shall be required only for the vehicle that is not registered; and

(C) If the operation of a truck and trailer not registered in Oregon would normally be covered by reciprocity, but is not, due to operation beyond the registered combined weight, a heavy motor vehicle permit would be required for the truck. The trailer would still be covered by reciprocity, and therefore not require a permit.

(5) All of the following apply to a "recreational vehicle trip permit.":

(a) The purchaser of the trip permit must sign a certification stating the purchaser has not purchased trip permits exceeding 10 days for the vehicle within the last 12 months;

(b) The purchaser of the recreational vehicle trip permit for motor home, must provide the insurance company name and policy number and sign the certification stating 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; and

(c) ORS 803.600(1)(d) requires the purchaser of a recreational vehicle trip permit to provide proof satisfactory to the Department of Transportation that the person is the owner of the camper, travel trailer or motor home. Satisfactory evidence of ownership is as set out in OAR 735-022-0000(1) and includes the following:

(A) An Oregon DMV record showing the purchaser as current owner of the vehicle;

(B) A bill of sale from the previous owners, showing the purchaser as the new owner;

(C) A Secure Odometer Disclosure/Reassignment (DMV Form 403) or Secure Power of Attorney (DMV Form 402);

(D) A copy of the contract or agreement to purchase the vehicle;

(E) A legal disposition, such as a sheriff's bill of sale or a court order, that awards the ownership of the vehicle to the purchaser; or

(F) The current Oregon Certificate of Title or Salvage Title, or an ownership document issued by another state or jurisdiction.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.600 - ORS 803.650 & ORS 806.080

Stats. Implemented: ORS 803.600

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

DIVISION 40**SPECIAL REGISTRATION PROVISIONS****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 Branch 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, ORS 802.010, ORS 803, ORS 805.020, ORS 805.030 & ORS 805.210

Stats. Implemented: ORS 801.605 & ORS 805.020 thru ORS 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 Branch 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, ORS 802.010, ORS 803, ORS 805.020, ORS 805.030 & ORS 805.210

Stats. Implemented: ORS 801.605 & ORS 805.020 - ORS 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 & ORS 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 requirements to register a vehicle, an applicant for disabled veteran registration plates shall submit to DMV:

(1) A completed Application for Disabled Veteran Plates, Form 6736.

(2) Proof that the qualifying disability is connected with service in the Armed Forces of the United States. This proof may be in the form of a letter from the U.S. Department of Veterans Affairs or any branch of the Armed Forces of the United States, certifying that the person is a disabled veteran.

(3) Proof that the veteran was discharged or released under honorable conditions from the Armed Forces of the United States. This proof may be in the form of:

(a) Discharge papers showing the discharge was honorable or occurred under honorable conditions; or

(b) An outpatient data card issued by the Veterans Administration stating "SERVICE-CONNECTED."

(4) Proof that the veteran served at least 90 consecutive days or was discharged or released on account of a service-connected injury or illness prior to the completion of the minimum period of service. This proof may be in the form of:

(a) Discharge papers showing total time served by the veteran; or

(b) Discharge papers showing the discharge to be the result of a service-connected injury or illness.

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

Group Plates

735-040-0040

Definitions

As used in OAR 735-040-0040 through 735-040-0100:

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

(2) "Group plates" means plates issued under ORS 805.205 for veterans' organizations institutions of higher education and non-profit groups who are tax exempt under 501(c)(3) of the Internal Revenue Code.

(3) "Group" means any organization or institution that applies for or receives approval for the issuance of group plates naming or describing that organization or the institution that they represent.

(4) "Institution of Higher Education" or "institution" means a post secondary institution that has been awarded and currently holds accreditation by the respective commissions of one of six regional accrediting associations that include the:

- (a) Northwest Association of Schools and Colleges;
- (b) Middle States Association of Colleges and Schools;
- (c) New England Association of Schools and Colleges;
- (d) North Central Association of Colleges and Schools;
- (e) Southern Association of Colleges and Schools; and
- (f) Western Association of Schools and Colleges.

(5) "Non-profit group" means a non-profit group that meets the qualifications for tax exempt status under section 501 (c)(3) of the Internal Revenue Code.

(6) "An expression of political opinion" includes words, letters or names that:

(a) Connote or denote issues commonly associated with politics or the political process;

(b) Connote or denote social issues or causes that have become factionalized and thus have taken on their own political status (e.g., abortion, environmental issues, etc.);

(c) Connote or denote a definable class of persons and that ridicule or support superiority of that class; or

(d) Promote or discourage social causes, or that ridicule or support superiority of a class or are political.

(7) "An expression of religious belief" means words, letters or names that affirm or support a particular religion or creed, express adherence to a particular sect or denomination, express belief in or the absence of belief in a supreme being or promote or discourage any form of exercise of religion.

(8) "Veterans' organization" means organizations or groups that meet the eligibility requirements under OAR 735-040-0050.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0050

Eligibility for Veteran Group Plates

(1) For group plates to be issued to a veterans' group:

(a) A group must first apply to DMV and be approved as a group for which DMV will issue plates; and

(b) If DMV approves issuance of plates for a particular group, the plates shall be made available for issuance to qualified applicants as a type of registration plate.

(2) To be eligible the group shall be a veterans' organization, that:

(a) Has an established membership, officers and bylaws;

(b) Is Oregon-based, or otherwise has a chapter located in Oregon; and

(c) Is an organization of veterans of the Armed Forces of the United States, or is organized and maintained for the purpose of supporting or recognizing such veterans.

(3) To be eligible, any group shall also satisfy DMV that there is interest among organization members or the public in the purchase of group plates for their particular organization. Also, that the interest is sufficient for DMV to reasonably expect to sell at least 50 sets of the group plates within the first 12 months they would be available for sale. Examples of what shall satisfy DMV may include, but shall not be limited to:

(a) Information or documentation that shows that a group's membership roster or defined customer base, from which they are likely to draw plate sales, far exceeds 50; or

(b) A market or membership survey that shows that at least 50 persons are interested in purchasing plates that name or describe the group.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0055

Eligibility for Institutions of Higher Education

(1) For group plates to be issued for an institution of higher education, the group shall:

(a) Either be an institution of higher education or be authorized by such an institution to apply for group plates for the institution and maintain said authorization; and

(b) First apply to DMV and be approved as a group for which DMV will issue plates.

(2) If DMV approves issuance of plates for a particular group, the plates shall be made available for issuance to qualified applicants as a type of registration plate.

(3) To be eligible, the group shall also satisfy DMV that there is interest among Oregon group members or the Oregon public in the purchase of group plates for the particular organization or institution. The interest shall be sufficient for DMV to reasonably expect to sell at least 50 sets of the group plates within the first 12 months they would be available for sale. Examples of what shall satisfy DMV many include, but shall not be limited to:

(a) Information or documentation that shows that a group's Oregon membership roster or defined customer base, from which they are likely to draw plate sales, far exceeds 50; or

(b) A market or membership survey that shows that at least 50 persons are interested in purchasing plates that name or describe the group.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0061

Eligibility of Non-Profit, Tax-Exempt Groups

(1) For group plates to be issued for a non-profit group, a group shall:

(a) First apply to DMV and be approved as a group for which DMV will issue plates;

(b) Demonstrate that the group is a non-profit group that meets the qualifications for tax exempt status under section 501 (c)(3) of the Internal Revenue Code; and

(c) Satisfy DMV that there is interest among Oregon organization members or the Oregon public in the purchase of group plates for their particular organization. The interest shall be sufficient for DMV to reasonably expect to sell at least 50 sets of the group plates within the first 12 months they would be available for sale, such as:

(A) Information or documentation that shows that a group's membership roster or defined customer base, from which they are likely to draw plate sales, far exceeds 50; or

(B) A market or membership survey that shows that at least 50 persons are interested in purchasing plates that name or describe the group.

(2) A eligible non-profit group as defined in OAR 735-040-0040 shall be based in or otherwise located in Oregon.

(3) If DMV approves issuance of plates for a particular group, the plates shall be made available for issuance to qualified applicants as a type of registration plate.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

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 & ORS 805.205
 Stats. Implemented: ORS 805.205
 Hist.: DMV 2-1994, f. & cert. ef. 3-17-94

735-040-0080

Application and Approval and Renewal Process for Veterans' Group

(1) Veterans' groups eligible to apply for group plates, as provided in OAR 735-040-0040 and 735-040-0050 may apply to DMV on a form provided by DMV, or on a form acceptable to DMV, and shall include:

- (a) A statement that the group is a veterans' organization as covered under OAR 735-040-0040 and 735-040-0050;
- (b) The names and addresses of current directors or officers of the group and the name and address of the person authorized to speak for the group on matters affecting group plates;
- (c) The word, words or initials the group would prefer to have DMV use on the plate to name or describe the group;
- (d) A certification or other evidence as may be required by DMV that the group has the authority to use the word, words or initials which name or describe the group on the plate;
- (e) Whether or not the group requests restrictions on the issuance of the group plates as covered in OAR 735-040-0090 and any other information DMV may require concerning the restriction; and
- (f) Specific information on the account to which moneys collected for the sale of group plates are to be deposited. If the group does not specify an account, the moneys shall be deposited to the Environmental Quality Information Account as provided by law.

(2) The group shall provide to DMV:

(a) A copy of the group's bylaws, organization papers or other documents that show they are a veterans' organization as described in OAR 735-040-0050;

(b) Membership or market surveys or other information that shows there is sufficient interest in the purchase of plates naming or describing the group in question so that DMV can reasonably expect to issue at least 50 sets of plates for that group within 12 months of when the plates would first go on sale; and

(c) Any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(3) DMV may take further steps to verify eligibility if there are questions as to whether an organization is eligible for group plates. DMV may refuse to approve the issuance of group plates, or may withdraw approval previously granted, if it determines the that:

- (a) The group is not eligible; or

(b) The word, words or initials used or proposed to be used to name or describe the group contain an expression of political opinion or religious belief, contrary to ORS 805.205.

(4) DMV shall notify the person authorized to speak for the organization when the application has been approved or rejected, when DMV proposes to withdraw approval, or when any additional information or documents are required. DMV shall consult with that person on the design of the plates to be issued for the group.

(5) Any group that obtains approval for group plates shall file an annual statement with DMV showing the group continues to be eligible for group plates. The statement shall:

(a) Be on a form provided by DMV or that is acceptable to DMV;

(b) Include a statement to the effect that the group continues to meet the eligibility requirements as covered in OAR 735-040-0050;

(c) Include any changes in the names and addresses of the current directors or officers of the group or other person authorized to speak for the group; and

(d) Include any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(6) The group shall immediately notify DMV anytime there is a change in the name or address of the person authorized to speak for the group on matters related to group plates.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0090

Issuance for Veterans' Groups

(1) Issuance of group plates may be restricted to certain persons as provided in this rule. All of the following apply to such restrictions:

(a) Any restriction on use shall be based only on things related to a person's service in the Armed Services of the United States. For example:

(A) DMV may approve a request to restrict group plate issuance to only veterans or to only those awarded a Purple Heart medal; and

(B) DMV shall not approve a request to restrict group plate issuance to only veterans who are members of a particular group or who meet other group criteria.

(b) Groups who wish to have plate issuance restricted shall indicate this on the initial application for group plates, provide information on who they want the plates restricted to and the basis for the restriction;

(c) DMV shall determine whether the restriction shall be allowed; and

(d) If group plate issuance is to be restricted, DMV shall consult with the group in determining the criteria DMV will use in accepting or rejecting applications for group plates.

(2) Group plates shall not be issued as custom plates, nor in conjunction with any other distinct registration or plate type.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0095

Application, Approval, Renewal and Issuance Process for Institutions of Higher Education

(1) Groups eligible to apply for group plates as an institution of higher education or as a group authorized to apply for such an institution as provided in OAR 735-040-0040 and 735-040-0055, may apply to DMV on a form provided by DMV, or on a form acceptable to DMV, and shall include:

(a) A statement that the group is an institution of higher education or authorized by such an institution to apply for group plates for said institution, as covered under OAR 735-040-0040 and 735-040-0055;

(b) The word, words or initials the institution would prefer to have DMV use on the plate to name or describe the institution;

(c) A certification or other evidence as may be required by DMV that the group has the authority to use the word, words or initials which name or describe the group on the plate;

(d) If the group is the institution itself, the name and address of the official authorized to speak on behalf of the institution on matters affecting group plates;

(e) If the group is other than the institution, the names and addresses of the current directors or officers of the group and of the person authorized to speak for the group on matters affecting group plates; and

(f) Specific information on the account to which moneys collected for the sale of group plates are to be deposited. If the group does not specify an account, the moneys shall be deposited to the Environmental Quality Information Account as provided by law.

(2) If the group is other than the institution itself, the application shall also include written authorization from the sponsoring institution. Such authorization shall be from the head of the institution or that person's designee and shall authorize the group to apply for group plates and to make group plate related decisions on behalf of the institution, including, but not limited to:

(a) Determining where any applicable funds generated from the sale of group plates are to go; and

(b) Working with DMV on what information will be placed on the plates to name or describe the group.

(3) If the group is other than the institution, the institution shall immediately notify DMV if for any reason, the group ceases to have authorization to act on behalf of the institution on matters affecting group plates.

(4) The group shall provide to DMV:

(a) Membership or market surveys or other information that shows there is sufficient interest in the purchase of plates naming or describing the group in question so that DMV can reasonably expect to issue at least 50 sets of plates for that group within 12 months of when the plates would first go on sale; and

(b) Any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(5) DMV may take further steps to verify eligibility if there are questions as to whether an institution or group is eligible for group plates. DMV may refuse to approve the issuance of group plates, or may withdraw approval previously granted, if it determines that:

(a) The group or institution is not eligible; or

(b) The word, words or initials used or proposed to be used to name or describe the group contain an expression of political opinion or religious belief, contrary to ORS 805.205.

(6) DMV shall notify the person authorized to speak for the group when the application has been approved or rejected, when DMV proposes to withdraw approval or when additional information or documents are required. DMV shall consult that person on the design of the plates to be issued for the group.

(7) Any group that obtains approval for group plates shall file an annual statement with DMV showing the group continues to be eligible for group plates. The statement shall:

(a) Be on a form provided by DMV or that is acceptable to DMV;

(b) Include a statement to the effect that the group continues to meet the eligibility requirements as covered in OAR 735-040-0055;

(c) Include written authorization from the institution stating that the group continues to have authorization to act on behalf of the institution in relation to the group plate program;

(d) Include any changes in the names and addresses of the current directors or officers of the group of the person authorized to speak for the group; and

(e) Include any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(8) The group shall immediately notify DMV anytime there is a change in the name or address of the person authorized to speak for the group on matters related to group plates.

(9) Group plates shall not be issued as custom plates, nor in conjunction with any other distinct registration or plate type.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0097

Application, Approval, Renewal and Issuance Process for Non-Profit Groups

(1) Non-profit groups eligible to apply for group plates, as provided in OAR 735-040-0040 and 735-040-0061 may apply to DMV on a form provided by DMV, or on a form acceptable to DMV, and shall include:

(a) A certification that the group is a non-profit group as covered under OAR 735-040-0040 and 735-040-0061;

(b) The names and addresses of current directors or officers of the group and of the person authorized to speak for the group on matters affecting group plates;

(c) The word, words or initials the group would prefer to have DMV use on the plate to name or describe the group;

(d) A certification or other evidence as may be required by DMV that the group has the authority to use the word, words or initials which name or describe the group on the plate; and

(e) Specific information on the account to which moneys collected for the sale of group plates are to be deposited. If the group does not specify an account, the moneys shall be deposited to the Environmental Quality Information Account as provided by law.

(2) The group shall provide to DMV:

(a) Documents that demonstrate that the group is a non-profit group as defined in OAR 735-040-0040;

(b) Membership or market surveys or other information that shows there is sufficient interest in the purchase of plates naming or describing the group in question so DMV can reasonably expect to issue at least 50 sets of plates for that group within 12 months of when the plates would first go on sale; and

(c) Any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(3) DMV may take further steps to verify eligibility if there are questions as to whether a group is eligible for group plates. DMV may refuse to approve the issuance of group plates or may withdraw approval previously granted, if it determines that:

(a) The group is not eligible; or

(b) The word, words or initials used or proposed to be used to name or describe the group contain an expression of political opinion or religious belief, contrary to ORS 805.205.

(4) DMV shall notify the person authorized to speak for the organization when the application has been approved or rejected, when DMV proposes to withdraw approval of a group, or when additional information or documents are required. DMV shall consult with that person on the design of the plates to be issued for the group.

(5) Any group that obtains approval for group plates shall file an annual statement with DMV showing the group continues to be eligible for group plates. The statement shall:

(a) Be on a form provided by DMV or that is acceptable to DMV;

(b) Demonstrate that the group continues to meet the eligibility requirements as covered in OAR 735-040-0061;

(c) Include any changes in the names and addresses of the current directors or officers of the group or of the person authorized to speak for the group; and

(d) Include any estimates the group may have for the sales of plates for the group during the next 12 months and information on which the estimates are based.

(6) The group shall immediately notify DMV anytime there is a change in the name or address of the person having authority to speak for the group on matters related to group plates.

(7) Group plates shall not be issued as custom plates, nor in conjunction with any other distinct registration or plate type.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

735-040-0100**Withdrawal and Reinstatement of Group Plates**

- (1) DMV shall cease to order additional plates for a group if:
 - (a) DMV determines the group no longer qualifies, such as when:
 - (A) The group fails to provide an annual statement as required under OAR 735-040-0080, 735-040-0095 and 735-040-0097;
 - (B) The group ceases to exist; or
 - (C) The group's approval is otherwise withdrawn.
 - (b) DMV determines the word, words or initials used to name or describe the group are inconsistent with statute or rule; or
 - (c) DMV fails to sell at least 50 sets of plates within any 12 consecutive month period. For the purpose of this subsection and section (4) of this rule:

(A) "Sets" shall include any plate(s) issued other than those issued as a replacement plate(s), whether one or two plates are issued; and

(B) The first day of the month in which the group plates are first offered for sale shall be used to determine the start of the first 12-month period.

(2) DMV shall notify the person authorized to speak for the group if DMV ceases to order plates for that group.

(3) If DMV ceases to order group plates for a group for reasons covered under subsections (1)(a) or (b) of this rule, DMV shall determine whether to continue to issue any existing plate inventory or to cease issuance:

(a) An example of when DMV may cease to sell any existing plate inventory is when DMV has determined that the word, words or initials used to describe a group do not comply with statute or rule; and

(b) An example of when DMV may elect to continue to sell any existing plate inventory is when a group fails to file an annual statement simply because of lack of interest in continuing the program beyond issuance of plates on hand.

(4) Once DMV has ceased to order plates for a particular group, DMV shall not again approve or order plates for that group except as provided in this section:

(a) If DMV ceases to order plates because the word(s) used to name or describe the group is determined to be inconsistent with statute or rule, DMV may order additional plates if:

(A) The group is otherwise eligible and qualified to have group plates; and

(B) After consulting with the person authorized to speak for the group, DMV determines to issue plates using a different word or words to name or describe that group.

(b) If DMV ceases to order plates for any other reason covered in section (1) of this rule, DMV shall not order additional plates unless DMV is satisfied that all remaining plate inventory for that group, plus at least 50 additional sets of plates will be purchased by applicants within a 12-month period:

(A) Documentation such as membership or market surveys will not suffice for reinstatement of a group plate. DMV shall require evidence that the minimum number of plates as provided in this section will be sold. This may include but shall not be limited to DMV's receipt of applications for the minimum number of plates as covered in this section; and

(B) Before any additional plates are ordered under this subsection, the group shall again qualify for the plates as provided under OAR 735-040-0080, 735-040-0095 and 735-040-0097.

(5) Except as otherwise provided in this section, if DMV ceases to issue plates for a particular group, plates issued for that group may continue to be used for the registration of the vehicle to which they were assigned. This section shall not apply if:

(a) DMV otherwise cancels the registration or plate(s) for a particular vehicle; or

(b) The plates are no longer valid for registration of that vehicle under some other statute or rule.

Stat. Auth.: ORS 184.616 & ORS 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 2-1994, f. & cert. ef. 3-17-94; DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95

DIVISION 42**FLEETS****Permanent Fleet Registration****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, ORS 803, ORS 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 Branch 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) Registration fees shall continue to accrue on a fleet registration when a vehicle is ineligible or withdrawn until:

(a) The plate is received by DMV; or

(b) The certification that the plate is lost or destroyed is received by DMV.

(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 802.010, ORS 803, ORS 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 735-100-0810; MV 47-1989, f. & cert. ef. 11-16-89

735-042-0020**Application for and Issuance of Fleet Registration**

(1) An application for initial fleet registration may be made on any form and shall contain, but not be limited to, the following:

(a) The name and address of the applicant, the billing address (if different) and the name and telephone number of the person responsible for the applicant's fleet registration;

(b) The current plate number, vehicle identification number (VIN), title number and registration expiration date for each vehicle to be added to the fleet;

(c) Whether the applicant chooses to have a single month of expiration for all fleet registered vehicles, and if so, the month chosen; and

(d) The signature of the applicant attesting to the accuracy of the application's contents.

(2) As allowed under ORS 803.420, a service fee of \$2 is required for:

(a) Each vehicle listed on a new application for fleet registration; and

(b) Each vehicle added to a fleet.

(3) As allowed under ORS 803.420, a service fee of \$1 is required for each fleet-registered vehicle when the registration for that vehicle is renewed.

(4) Each fleet-registered vehicle shall be issued a registration card upon initial registration. A registration card will not be issued when a vehicle is renewed unless:

(a) There are changes to the record; and

(b) The fleet operator requests a new card.

(5) The registration expiration dates for fleet vehicles shall not show on the plates or registration cards issued for fleet vehicles. This information will be on Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) records only.

(6) Every fleet shall be assigned a unique fleet account number by DMV.

(7) Fleet plates shall have the prefix "PF."

(8) Vehicles required to have two plates shall be issued two "PF" plates. Vehicles required to have one plate shall be issued one "PF" plate.

(9) If an application to add a vehicle to a fleet is submitted to a DMV office that does not have "PF" plates in its regular plate inventory, then fleet plates shall be issued by DMV's administrative office at 1905 Lana Avenue in Salem, when the application is approved. The fleet operator may request a temporary registration permit for each vehicle added to a fleet for use until fleet plates are issued.

(10) Except as provided in OAR 735-042-0030, the following apply to fleet-registered vehicles:

(a) Vehicle types eligible for quarterly registration shall be registered for 12 months at a time;

(b) When a fleet-registered motor vehicle is renewed early under the provisions of OAR 735-030-0090, the owner shall have the option of renewing for 12 months or for a period that would allow the owner to keep the same month of expiration currently assigned to the vehicle, not to exceed one year. If the owner chooses to renew for less than one year, the registration fee shall be prorated for the appropriate number of months; and

(c) Vehicles subject to biennial registration shall be registered for a two-year period.

(11) Fleet registration renewals shall be accomplished by providing each fleet operator with a billing list:

(a) The billing list shall be provided to the fleet operator approximately 60 days prior to the end of the month of expiration;

(b) The billing list shall contain a record of each vehicle whose registration expires in the month for which the billing list was prepared; and

(c) By the last day of the month of expiration, the fleet operator shall meet all registration renewal requirements for each vehicle shown on the billing list and shall:

(A) Pay all fees due as shown on the billing list; or

(B) Comply with the provisions of OAR 735-042-0010 for withdrawing a vehicle from a fleet.

(12) Every motor vehicle in a single fleet shall be covered by minimum liability insurance as specified by law. Insurance coverage shall be certified each time the registration for a fleet-registered vehicle is renewed.

(13) Fleet plates issued to a fleet-registered vehicle shall not be transferred to any other vehicle.

(14) Fleet operators shall receive a refund of the unused portion of the registration for any vehicle withdrawn from the fleet:

(a) The fleet operator shall have complied with the provisions of OAR 735-042-0010 for withdrawing a vehicle from a fleet;

(b) The refund of registration fees shall not apply to any service fees paid for the current registration period, such as the fee in section (3) of this rule;

(c) The refund shall be limited to the number of full months of unused registration; and

(d) When determining the number of full months of unused registration, the month in which the fleet operator complies with subsection (a) of this section shall not be included.

Stat. Auth.: ORS 802.010, ORS 803, ORS 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 735-100-0820; 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

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 Branch 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, ORS 803, ORS 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 Branch 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, ORS 803, ORS 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 as a “rental” vehicles, may be registered as an allocated fleet as provided in this rule and agreements between the Driver and Motor Vehicle Services Branch 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.

drawal of registration reciprocity for vehicles of the fleet registered in other jurisdictions.

Stat. Auth.: ORS 184.616 & ORS 803.410

Stats. Implemented: ORS 802.500, ORS 803.305, ORS 803.410 & ORS 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 Branch 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 provided 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 & ORS 803.410

Stats. Implemented: ORS 802.500, ORS 803.305, ORS 803.410 & ORS 803.415

Hist.: MV 1-1994, f. & cert. ef. 1-19-94

DIVISION 46

SPECIAL PLATES

735-046-0000

Custom Plates — Definitions

As used in OAR 735-046-0000 through 735-046-0050:

(1) “Custom plates” means customized registration plates as authorized by ORS 805.240.

(2) “DMV” means the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(3) “Plate choice” means the distinguishing numbers, letters or combinations thereof which are requested by an applicant for use on custom plates. The letter “O” and the number “zero” shall be considered to be the same when used in plate choices. The plate choice:

(a) Includes only the letters or numbers that identify one vehicle from all other vehicles; and

(b) Does not include the plate background, design, method of validation, or any other information DMV may choose, or be required, to place on registration plates.

(4) “Plate configuration” means the distinguishing numbers, letters or combinations thereof that have been assigned, or which may be assigned, for use on a registration plate(s). As used in these rules, the term applies to specific configurations within a series as well as to the entire series of plates where the same combination of identifying numbers or letters is used, regardless of whether a specific configuration has been manufactured or issued. For example, this would apply to the specific motor home plate configuration H234561 as well as to any configuration that began with the letter “H” followed by numbers, whether or not the specific configuration in the series has been issued.

(5) “Current use” means registration plates issued by DMV and which are still renewed by DMV or recognized as valid for operation of a vehicle over the highways. These include but are not limited to:

(a) Passenger vehicle plates issued in 1956 and after; and

(b) Motorcycle plates issued in 1967 and after.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 805.240

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

735-046-0010

Custom Plates — Application and Standards

(1) Persons who want to obtain custom plates shall apply to DMV for approval and assignment of the plate choice.

(2) Applications shall be accepted at DMV offices or may be submitted by mail. Custom plate choices shall:

(a) Not be reserved in advance of application and payment of required fees; AND

(b) Be approved and assigned on a first-come, first-served basis. When two or more applications requesting an identical plate choice are received, whether it be an application for renewal of a custom plate which has been expired for more than 30 days or an original application, the one for which DMV first receives the application and required fees shall be the one considered for approval of that plate

choice. “Application” as used in this subsection may include application by phone provided DMV is in possession of the required fees. For example, a call is made to request an alternate choice because the original choice is not available.

(3) Except as provided for in OAR 735-046-0020, applicants for custom plates shall otherwise qualify for Oregon title and registration for the vehicle to which the plates are to be assigned, and shall pay any applicable fees. Such requirements and fees shall be submitted with the request for approval of a custom plate choice, unless previously submitted to DMV.

(4) A custom plate choice shall not be considered approved and assigned until the plate has actually been issued by DMV.

(5) To be considered for approval by DMV a requested plate choice shall:

(a) Be compatible with DMV’s computer system;

(b) Not be identical to any plate configuration reserved for current Oregon office holders, the Governor or Honorary Consular Corps Representatives, unless the custom plate is being issued under the provisions of OAR 735-046-0050;

(c) Not begin with the letters “SEN,” “REP,” “USS,” “USR” or “ORE” and be followed by numbers;

(d) Be limited to alphabetic or numeric characters, or combinations thereof, and shall not include any 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 shall be allowed provided it is a space or a dash;

(g) Except as provided in section (6) 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 shall not be considered when determining whether the plate is identical to another plate configuration; and

(h) Otherwise be approved as a plate choice under the provisions of OAR 735-046-0000 to 735-046-0050.

(6) 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 to be issued in the future;

(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 shall be the applicant’s responsibility to satisfy DMV that the plates have been destroyed, surrendered to DMV, surrendered to another state, or otherwise 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), i.e., those which 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 vehicles 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) cannot 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) cannot 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.

(7) DMV shall 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; and/or

(D) Refer to illegal acts.

(b) Refers to alcoholic beverages, or controlled substances or paraphernalia used in the consumption thereof by combinations of letters, numbers or both.

(8) DMV may use any reliable lexicological source to determine the meaning of any word, symbol or phrase.

(9) When reviewing a plate choice for approval, DMV need not consider the applicant's subjective intent or declared meaning.

(10) DMV shall approve the transfer of registration plates which 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 which 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 & ORS 184.619

Stats. Implemented: ORS 183.415, ORS 805.240 & ORS 805.242

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

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 & ORS 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 & ORS 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 & ORS 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

Custom Plates — Issued to Honorary Consuls and Elected Official Plates

(1) Elected official plates shall be available to current Oregon office holders as covered in ORS 805.220.

(2) Special custom plates (hereafter referred to as honorary consul plates) shall be available to members of the Honorary Consular Corps.

(3) Plate background, design, method of validation or any other information on plates covered in this rule shall be as required by statute, or as determined by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV).

(4) Elected official plates shall indicate the office or title of the elected official in addition to the plate configuration. Specific plate configurations shall be reserved for use on elected official plates issued to the following office holders:

(a) For the Secretary of State — “2”;

(b) For the State Treasurer — “3”;

(c) For the President of the Senate — “4”;

(d) For the President pro tempore of the Senate — “4A”;

(e) For the Speaker of the House of Representatives — “5”;

(f) For the Speaker pro tempore of the House — “5A”;

(g) For State Senators the applicable Senate district number;

(h) For State Representatives the applicable House district number;

(i) For members of the U.S. Senate the letter “S” followed by a number; and

(j) For members of the U.S. House of Representatives the letter “R” followed by the House District members.

(5) Honorary consul plates shall reference the Consular Corps in addition to a number.

(6) To qualify for elected official plates, the registered owner of the vehicle to which the plates are to be assigned shall be the current holder of the specified office for which the plates have been designated, which can be verified by the Secretary of State.

(7) To qualify for honorary consul plates, the registered owner of the vehicle to which the plates are to be assigned shall be affiliated with or represent a foreign consulate. This shall be verified by a letter on official letterhead from the nation that person represents, designating the person as an Honorary Consul.

(8) Persons who qualify for and want elected official plates or honorary consul plates shall apply to DMV, for the registration of a specific vehicle with such plates and shall:

(a) Submit the required custom or elected official plate fee; and
(b) Any other fees or documents required for the registration of the vehicle.

(9) Honorary consul plates shall be assigned to specific vehicles. The plates may be transferred to another vehicle if:

(a) The vehicle to which the plate is being transferred is being registered in the name of the person that qualifies for that particular plate configuration; and

(b) The required fees and application for transfer are submitted to DMV.

(10) Elected official plates shall be assigned to a specific vehicle and shall be in addition to the regular registration plates issued to that vehicle. Elected official plates may be transferred to another vehicle if:

(a) The vehicle to which the plates are being transferred is being registered in the name of the person that qualifies for that particular plate configuration; and

(b) The applicant submits a completed application to DMV that indicates the vehicle to which the elected official plates are to be assigned. No fee shall be required for the transfer of an elected official plate.

(11) Individuals leaving office or ceasing to act in an official capacity, including Honorary Consuls, shall remove these plates from their vehicles at the end of their term or office, or when they cease to act in an official capacity. When this occurs the person shall:

(a) Not display the elected official plates or honorary consul plates on any vehicle while such vehicle is being operated over the highways; and

(b) Surrender such plates to DMV unless they are to be retained for souvenir purposes only.

(12) The plate configuration number “1” shall be reserved for official use of the Governor’s office. Consistent with the intent of the state in protecting the security of the Governor, DMV shall make other regular series plates available to the office of the governor. These plates:

(a) May be obtained at the request of the Governor’s Office; and

(b) Shall be issued without fees, except for the fee required to cover the cost of manufacturing the plates.

Stat. Auth.: ORS 802.010, ORS 803.530, ORS 803.535, ORS 805.200, ORS 805.220, ORS 805.240 & ORS 805.250

Stats. Implemented: ORS 805.220 & ORS 805.240

Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 13-1992, f. & cert. ef. 10-16-92

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, ORS 184.619 & ORS 805.115

Stats. Implemented: ORS 803.520 & ORS 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 Branch (MCTB) of the Oregon Department of Transportation.

(3) “Nonprofit” is as defined in ORS 825.015.

(4) The Driver and Motor Vehicle Services Branch 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 MCTB 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, ORS 184.619, ORS 803.420(11), ORS 803.535 & ORS 805.200

Stats. Implemented: ORS 803.420 & ORS 805.200

Hist.: MV 55-1989, f. & cert. ef. 12-21-89; DMV 8-1997, f. & cert. ef. 10-16-97

735-046-0080

Oregon Trail Registration Plate Series

(1) The Oregon Trail plate required under Chapter 741, Oregon Laws 1993, shall be issued as provided in section (2) of this rule to:

(a) Motor vehicles registered under ORS 803.420(1). Vehicles registered under these provisions include but are not limited to:

(A) Motor trucks with a loaded weight of 8,000 pounds or less, except armored cars, wreckers, tow vehicles, hearses or ambulances; and

(B) Vehicles commonly known as passenger cars.

(b) Any vehicle covered in section (1) of this rule and registered with a customized plate(s) as provided in ORS 805.240; and

(c) Motor home, travel trailer and camper plates covered under ORS 803.420(16).

(2) At the request of the owner(s), vehicles listed in section (1) of this rule shall be issued a plate bearing the Oregon Trail design:

(a) Upon the initial registration of the vehicle in Oregon;

(b) Upon application for replacement plate(s); or

(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 a vehicle with passenger registration changes to custom plate registration under ORS 805.240).

(3) Persons who apply for a plate(s) from the Oregon Trail series, under section (2) of this rule, shall pay a fee of \$2.50 per plate as provided in Subsection 113(2), Chapter 741, Oregon Laws 1993. This fee is in addition to the plate manufacturing fee and any other application fees (i.e., renewal of registration fee, replacement plate fee). The fees as specified in Subsection 113(2), Chapter 741, Oregon Laws 1993 are \$2.50 for each plate issued.

Stat. Auth.: ORS 184.616 & Ch. 741, OL 1993

Stats. Implemented: Ch. 741, OL, Sec 113 & 114

Hist.: MV 5-1993, f. & cert. ef. 10-21-93

DIVISION 48

FARM VEHICLES

Farm and Proportional Farm Registration

735-048-0000

Definitions

For the purposes of OAR 735-048-0000 through 735-048-0080 the following definitions apply:

(1) “MCTB” means the Motor Carrier Transportation Branch 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 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 and/or livestock produced or raised thereon and the vehicles registered with farm or proportional farm registration for use in conjunction with said operation.

(6) “Qualifying farmer” means a person who has applied for, and received, status as a farmer from MCTB 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 thereof, 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, which is:

(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 occurs 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 or firewood business.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.300 - ORS 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

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) 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 shall be 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.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.390

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

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 shall 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, shall consider only the need that is directly related to the farmer's own farming operation. Examples of how this section applies include, but shall not be 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, shall not be considered in determining the need for a vehicle;

(c) Transportation under a permit issued under ORS 825.024 shall 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. A special purpose 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 subsection.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 805.200 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.310

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. 1-30-88; DMV 10-1996, f. & cert. ef. 11-21-96

735-048-0040

Application and Annual Requalification

(1) Application for farm registration or renewal shall be made as provided in this rule. The applicant shall demonstrate to the satisfaction of MCTB 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, if the vehicle is a motor vehicle, to be covered by financial responsibility.

(3) To qualify for farm registration the owner of the farm shall 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) or at weights exceeding 26,000 lbs., a statement to that effect; and

(d) A statement that the applicant shall immediately notify MCTB 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 shall annually requalify for farm or proportional farm registration as required under ORS 805.322:

(a) The requalification process for farming operations shall be staggered throughout the calendar year. MCTB shall 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;

(b) MCTB shall provide notice and an application for the owner to use in requalifying. To requalify, the owner shall verify that all of the information previously submitted under statute and this rule is still correct or provide MCTB 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, MCTB:

(A) Shall 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 shall provide MCTB with enough information to qualify for the additional vehicles. The information shall be on a form prescribed by MCTB and shall include:

(A) The name and business or residence address of the applicant;

(B) The township 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 use and capacity is substantially the same and which 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 shall:

(a) Surrender farm registration plates and devices to MCTB if the owner or vehicle(s) no longer qualifies; or

(b) Submit a new application for farm registration if requested by MCTB.

(7) If the ownership of the farming operation changes, the new owner shall:

(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 MCTB.

(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 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, ORS 184.619 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.310 & 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 735-071-0090; MV 11-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-1996, f. & cert. ef. 11-21-96

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 MCTB 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 MCTB when conducting an investigation related to use of farm registered vehicles.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 805.200 & ORS 805.300 - ORS 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

735-048-0060

Plates and Devices Issued

(1) Farm registered vehicles shall be issued registration plates.

(2) A vehicle registered on a proportional basis for interstate use shall be issued proportional registration plates. In addition, the vehicle shall be issued a device to reflect the farm registration:

(a) The device(s) shall identify the vehicle as being registered under proportional farm registration and shall 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 shall be carried in the vehicle.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.200 & ORS 805.400

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

735-048-0070

Complaints

Complaints about improper farm or proportional farm registration or misuse of vehicles registered may be filed with MCTB headquarters: 550 Capitol St. NE, Salem, Oregon 97310.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 805.200 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.380 & ORS 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

735-048-0080

Cancellation

(1) MCTB 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) To "cancel the registration of any vehicle that has registration issued under ORS 805.300" means any vehicle for which the owner, lessee or employee involved either has farm registration at the time of the initial cancellation action, or for which they apply for

farm registration within one year (12 months) of the original cancellation action; and

(b) "One year after cancellation" refers to calendar months, and shall 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 such vehicles to another qualified farmer as permitted in OAR 735-048-0020, shall be subject to farm plate registration cancellation if the borrower, renter or lessee of such vehicle is found in violation of farm plate registration regulations if the owner knew, or should have known, the vehicle was being used in violation of ORS 805.300 through 805.410.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 805.300 - ORS 805.410

Stats. Implemented: ORS 805.380 & ORS 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

DIVISION 50

FINANCIAL RESPONSIBILITY

Accident Reports; Security Deposits

735-050-0000

Determination of Ownership

(1) Any person whose name appears as an owner on the motor vehicle registration will be considered an owner for financial responsibility purposes, unless exempted under sections (3) through (5) of this rule. Unless otherwise provided, any person seeking an exemption under this order must furnish the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) with a self serving affidavit and an affidavit against interest from the person who holds the primary ownership interest in the motor vehicle. However, the affidavit against interest requirement may be waived if the department determines it to be unfeasible.

(2) Where the parties are married and living together, both parties will be considered owners.

(3) Where the parties are married and living apart, an owner may be exempted from financial responsibility by showing that there has been a complete relinquishment of the motor vehicle by such person. A separation agreement showing the date at which complete relinquishment of the motor vehicle occurred is also satisfactory.

(4) Where the parties have been divorced, and have had joint ownership of the vehicle, it will be the duty of the one obtaining possession of vehicle through the divorce decree to present the title and a copy of the decree to DMV so that the other party will no longer be held liable if an accident should occur subsequent to the decree. If the party obtaining the title to the vehicle by virtue of the divorce fails to present the title and decree, and is involved in an uninsured accident, the other party shall be relieved of liability under the financial responsibility law of the state by presenting to DMV an affidavit and a copy of the divorce decree to establish that his ownership interest was transferred by operation of law to the other party to the divorce and that he is no longer in possession of the motor vehicle.

(5) Where a nonmarital relationship exists, an owner may be exempted from financial responsibility only where it can be shown by affidavits, as provided in section (1) of this rule, that such person does not exhibit any incidents of having the right to immediate possession of the motor vehicle. The following are the incidents of who has the right to immediate possession:

(a) The person who has paid or is paying all or a substantial part of the purchase price of the motor vehicle. Evidence of payments will be required by DMV;

(b) The person who has paid the major portion of the maintenance and operation costs. If possible, this will be supported by documentation; and

(c) The person who uses the car the greater amount of time.

(6) Where a person has sold a motor vehicle and has transferred possession to the buyer but the application for transfer of title has not been presented to DMV, he will be considered an owner for finan-

cial responsibility purposes, unless the seller can produce affidavits, as provided in section (1) of this rule, or a written purchase agreement signed by the buyer showing that the right to immediate possession rests in the buyer.

Stat. Auth.: ORS 802.010 & ORS 806.010

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

735-050-0010

Accident Report When Good Faith Dispute Arises as to Whether or Not Accident is Reportable

When a good faith dispute arises as to whether or not an accident is reportable under ORS 811.720, the party claiming that the accident must be reported shall furnish proof of this to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV):

(1) DMV will accept as proof of the amount of property damage:

(a) Repair bill for that damage; or

(b) Estimates of that damage from one who is in the business of providing such estimates.

(2) In the case of bodily injury DMV will not require additional proof other than the statement to that effect on an accident report.

Stat. Auth.: ORS 802.010 & ORS 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

735-050-0020

Self-Insurance Qualifications

(1) All applicants for self-insurance certificates shall apply by means of the "Application for Self-Insurance Certificate," Form Number 735-6798.

(2) The application shall be accompanied by the last annual financial report issued within the last 12 months, a listing of all Oregon registered vehicles to be self-insured, and a three year accident history statement including total number of motor vehicle accidents, accident claims against the person or company, claims satisfied, and any outstanding judgments.

(3) The financial report shall contain the financial statements and footnotes as required by generally accepted accounting principles and be certified by a licensed public accountant or a certified public accountant.

(4) ORS 806.040 requires a person or company to establish proof of their financial resources to pay and discharge potential judgments which might be awarded against them to the satisfaction of the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV). This shall be established if the company or person submits a completed "Application for Self-Insurance Certificate," Form Number 735-6798, and does one of the following:

(a) Satisfies to DMV through its application, financial statements, accident history statement, and any other documents DMV may require, that its financial status is sound and that its net assets minus its total liabilities would provide sufficient funds to meet and satisfy any judgment claims arising from motor vehicle accidents;

(b) Satisfies to DMV through its application, financial statements, accident history statement, and any other documents DMV may require, that it has established and will maintain a cash insurance reserve fund of a minimum of \$500,000 solely for the purpose of discharging motor vehicle accident claims;

(c) Has current standing as being self-insured through the Interstate Commerce Commission; or

(d) Has current standing as being self-insured through the Public Utility Commissioner's office of the State of Oregon.

(5) DMV may revoke a self-insurance certificate if any of the following circumstances occur:

(a) The applicant fails to submit an annual financial report regarding the applicant's current financial status;

(b) The applicant fails to annually certify to DMV that the applicant continues to be qualified, as defined by Oregon Law, to operate as self-insured;

(c) The applicant fails to immediately notify DMV if at any time the applicant no longer qualifies to operate as self-insured as defined by Oregon law; or

(d) 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.

Stat. Auth.: ORS 806.130 & ORS 806.140

Stats. Implemented: ORS 806.130 thru ORS 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

735-050-0050

Content of Financial Responsibility Certificate and Procedure for Processing

(1) A certificate of insurance, for purposes of proving future responsibility, must be submitted on a form known as an SR-22. The following defines the required contents of an SR-22 certificate.

(2) SR-22s are required to have and will not be accepted unless they have:

(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 and the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall place a restriction on the license to that effect;

(b) Insured's driver's license number and date of birth;

(c) Insurance company name and not the agent. Company name is acceptable if preprinted on the back of the form, or typed on the front;

(d) Policy number;

(e) Effective date of the policy;

(f) Box must be checked, showing whether the policy is an operator's or owner's. If owner's, must describe all vehicles owned by policy;

(g) The certificate must show Oregon as state to be filed in. The insurance carrier issuing the certificate must be authorized by the Insurance Division of the Oregon Department of Commerce to do business in Oregon;

(h) Authorized signature for insurance company;

(i) Date SR-22 was typed. If it was presented to DMV more than 30 days after the date it was typed, it will not be accepted; and

(j) A statement that **"The company signatory hereto hereby certifies that it has issued to the above named insured a motor vehicle liability policy as required by the financial responsibility laws of this state, which policy is in effect on the effective date of this certificate."**

(3) The statement in subsection (2)(j) of this rule will also satisfy the requirements of ORS 806.075, as a declaration of the issuing insurance company that it has assumed the higher liability limits required for a Driving Under the Influence of Intoxicants conviction under the financial responsibility laws of Oregon.

(4) SR-22 certificates shall cover all vehicles currently registered by the insured in the State of Oregon.

(5) One certificate per customer visit may be submitted at any DMV field office for purposes of filing provided the office has video computer capability. Offices without video computer terminal capability will not accept SR-22 certificates.

Stat. Auth.: ORS 801.290, ORS 802.010, ORS 806.075 & ORS 806.270

Stats. Implemented: ORS 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

735-050-0060

Good Faith Belief of Compliance with Financial Responsibility Requirements — Purpose and Definitions

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall terminate future responsibility 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; and

(b) Reasonably and in good faith believed s/he 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) A person is responsible for knowing the contents of his or her motor vehicle liability insurance policy, and it is presumed that a driver has the basic reading skills necessary to gain this knowledge if the driver was able to take and successfully pass the English language version of the written portion of the driver licensing examination.

(5) DMV shall rescind a suspension under this rule if DMV is presented with substantial 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 Reports Unit or at a hearing. In either case, examples of such evidence includes, but is 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 agent;

(c) Copies of insurance policies, binders, declarations or applications; and

(d) Notarized written statements or sworn testimony from spouses, co-owners of current or former policies or others 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 negative determination by the Accident Reports Unit shall not limit the right to a hearing.

Stat. Auth.: ORS 802.010, ORS 806.245, ORS 809.380 & ORS 809.450

Stats. Implemented: ORS 806.245, ORS 809.380 & ORS 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

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 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 Branch of the Department of Transportation (DMV) random sample;

(c) An estranged spouse or other additional holder of an insurance policy cancels the policy without the person's knowledge and consent; 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 shall 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 802.010, ORS 806.245, ORS 809.380 & ORS 809.450

Stats. Implemented: ORS 806.245, ORS 809.380 & ORS 809.450

Hist.: MV 7-1989, f. & cert. ef. 2-1-89

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 substantially similar statement;

(b) Belief by a person who is 18 years old or older 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 normally pays all bills and must have paid an insurance premium; and

(f) Belief based only upon an insurance agent’s 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 Branch of the Department of Transportation (DMV) shall 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 802.010, ORS 806.245, ORS 809.380 & ORS 809.450

Stats. Implemented: ORS 806.245, ORS 809.380 & ORS 809.450

Hist.: MV 7-1989, f. & cert. ef. 2-1-89

735-050-0070**Suspensions for Uninsured Accidents**

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall suspend the 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 shall 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 agent, or any person involved in the accident.

(3) If the accident must be reported to DMV, DMV shall 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 which 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 shall grant a presuspension 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. DMV shall withdraw the suspension pending the outcome of the hearing and shall reimpose the suspension if the hearings officer affirms the suspension following the hearing.

(5) Once a suspension described in section (1) of this rule takes effect, DMV shall rescind the suspension if the person supplies the name of an insurance carrier and policy number which covered the person’s operation of the vehicle at the time of the accident and pays the reinstatement fee.

(6) DMV shall again suspend the driving privileges if the suspension was withdrawn under section (5) of this rule 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 802.010, ORS 809.410(9) & ORS 809.410(21)

Stats. Implemented: ORS 809.410(9) & ORS 809.410(21)

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

735-050-0080**Financial Responsibility Verification Program**

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall randomly select motor vehicles for financial responsibility verification. This shall be done at about five-week intervals. The total number randomly selected each year shall be approximately one percent of the motor vehicles registered in Oregon that are subject to verification.

(2) DMV shall, in addition, designate particular vehicles for verification if DMV has reasonable grounds to believe that the vehicles are being operated in violation of financial responsibility requirements. DMV’s determination of reasonable grounds shall be based on the following:

(a) Written statements from police, insurance companies, insurance 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 a record of conviction in another state of the owner of any Oregon-registered vehicle for driving uninsured, regardless of what vehicle the person was driving at the time of offense.

(d) Receipt by DMV of any record from another state indicating that an Oregon-registered vehicle was being 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 being driven while uninsured.

(3) DMV shall use a written statement as identified in subsection (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 which 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 which would cause a reasonable person to believe the vehicle is being operated in violation of financial responsibility requirements.

(4) If DMV suspends a person’s driver license because the person failed to make a future responsibility filing after failing verification, the person has an opportunity for a pre-suspension hearing as provided in ORS 809.440(1). The person may be entitled to a post-imposition hearing as described in OAR 735-050-0090 if no pre-suspension hearing is held.

Stat. Auth.: ORS 802.010, ORS 806.150 & ORS 809.450

Stats. Implemented: ORS 806.150

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

735-050-0090**Post-Imposition Financial Responsibility Hearing**

The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall grant a request for a post-imposition hearing to determine the validity of the suspension for failure to make a future responsibility filing. The hearing shall be granted subject to the following:

(1) The suspension must have resulted from a failure to make a future responsibility filing after failing verification under ORS 806.220.

(2) The person must not have had a previous hearing on the suspension.

(3) The person must have already provided to DMV any information that would indicate the vehicle in question was insured at the time of verification.

Stat. Auth.: ORS 802.010, ORS 806.150 & ORS 809.450

Stats. Implemented: ORS 809.450

Hist.: MV 2-1986, f. & ef. 1-30-86; Administrative Renumbering 3-1988, Renumbered from 735-033-0085

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.

(2) When a person must file proof following a suspension of the person's driving privileges under ORS 813.400, 809.410(2), (6), (7), (8), (21), or (36), or following a revocation under ORS 809.410(1), (3), (4), or (5), the three (3) year period for filing proof shall begin on the first day following the scheduled expiration date of the suspension or revocation. The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall reflect the filing requirement by making an entry on the person's driving record of the Proof Required Until (PRU) date. The PRU date shall be the ending date of the filing requirement.

(3) Before the expiration of the suspension or revocation for reasons identified in section (2) of this rule, DMV shall provide the person with notice that a suspension under ORS 809.410(10) shall be imposed for failure to make future responsibility filings unless proof is filed. The suspension notice shall specify the suspension for failure to file proof shall begin on the first day following the scheduled expiration date of the suspension or revocation for reasons identified in section (2) of this rule. Once the suspension for failure to file proof is imposed, it shall remain in effect until the PRU date or until the person files proof of responsibility, whichever comes first.

(4) The suspension for failure to file proof shall not take effect if the person files proof before the effective date of the suspension.

(5) Nothing in this rule shall limit the rights of a person to have a suspension rescinded if authorized by ORS 809.450.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 806.010, ORS 806.060, ORS 806.075, ORS 806.240, ORS 806.245, ORS 809.410 & ORS 813.400

Hist.: MV 5-1989, f. & cert. ef. 1-17-89; DMV 6-1998, f. & cert. ef. 6-19-98

735-050-0110

Bonds and Deposits Used for Compliance with Financial Responsibility Requirements

(1) Persons using a bond, as described in ORS 806.090, or a deposit with the State Treasurer, as described in ORS 806.110, to comply with the financial responsibility requirements of this state under ORS 806.060, shall notify the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) of such action within seven days after the date such bond is obtained or such deposit is made. The notification shall be in writing and shall be accompanied by a copy of the bond or a copy of documentation from the State Treasurer's Office showing a cash deposit or security deposit has been made.

(2) Person's using such bond or deposit to comply with the financial responsibility requirements of this state, at the time this rule becomes effective, shall file a copy of the bond or a copy of the documentation from the State Treasurer's Office with DMV within seven days after the effective date of this rule.

(3) Failure to file a copy of such bond or such documentation from the State Treasurer's Office with DMV, as required by this rule, shall constitute prima facie evidence that no such bond or deposit exists.

(4) Upon receipt of a copy of the bond or documentation from the State Treasurer's Office, and after determining the bond or deposit with the State Treasurer meets Oregon financial responsibility law requirements, DMV shall place a notation on the person's driving record.

Stat. Auth.: ORS 183.341, ORS 802.010, ORS 806.090 & ORS 806.110

Stats. Implemented: ORS 806.090 & ORS 806.110

Hist.: MV 56-1989, f. & cert. ef. 12-21-89

735-050-0120

Proof of Compliance with Financial Responsibility Requirements in Lieu of an Unexpired Insurance Card

The following list establishes what constitutes "other current proof of compliance with financial or future responsibility requirements" under Section 2, Chapter 746 and Section 4, Chapter 814, Oregon Laws 1993, and "proof of compliance with financial responsibility requirements" under ORS 806.012:

(1) An unexpired motor vehicle liability insurance policy for the particular vehicle which meets the standards set forth in ORS 806.080;

(2) An unexpired motor vehicle liability insurance binder issued by the insurance company or its authorized agent for the particular vehicle which meets the standards set forth in ORS 806.080;

(3) A letter signed by an authorized agent or company official, on agent or insurance company letterhead that verifies current insurance coverage;

(4) A certificate of self insurance issued by DMV under ORS 806.130 naming the owner of the particular vehicle;

(5) A safekeeping receipt for a \$60,000 security deposit with the Oregon State Treasurer issued under ORS 806.110;

(6) A \$60,000 surety bond which meets requirements of ORS 806.090; or

(7) A displayed Oregon dealer plate unless dealership does not sell motorized vehicles and has completed a "Certificate of Exemption from Vehicle Liability Insurance," Form 735-7024.

Stat. Auth.: ORS 184.616, ORS 806.012 & Ch. 745 & 814, OL 1993

Stats. Implemented: ORS 806.012, Section (2), Ch. 746, OL 1993 & Section (4), Ch. 814, OL 1993

Hist.: DMV 3-1994, f. & cert. ef. 7-21-94

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 in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 377.725 and 377.729

Stat. Implemented: ORS 377.712, 377.725, 377.726, 377.729 and 377.730

Hist.: TO 6-2001(Temp), f. & cert. ef. 11-9-01 thru 5-7-02

DIVISION 60

DRIVING PRIVILEGES, LICENSES AND PERMITS

Classes of Licenses and Employer Certification

735-060-0000

Definitions

The following definitions apply to terms in OAR 735-060-0000 through 735-060-0170, and 735-062-0000 through 735-062-0150:

(1) "CDL" means commercial driver license.

(2) "Commercial truck or bus driver training school" means any school which trains the general public in driving commercial motor vehicles and has been licensed by the Oregon Department of Education as a licensed private career school.

(3) "Disqualified" means a person's driving privilege to drive a commercial motor vehicle has been withdrawn by the Secretary of the United States Department of Transportation or a determination

has been made by the Federal Highway Administration that a person is no longer qualified to operate a commercial motor vehicle.

(4) "Commercial truck or bus driver training program" means an employer driver training program designed primarily for the certification of employee competency in meeting the minimum standards necessary to pass a CDL skills test.

(5) "DMV" means the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(6) "Employee" means a person who works for another for compensation, but does not include an independent contractor.

(7) "Employer" includes any of the following:

- (a) A business;
- (b) A company;
- (c) A corporation;
- (d) An association;
- (e) A cooperative; and
- (f) A federal, state, county or municipal agency.

(8) A "motor carrier" means for-hire carrier or private carrier as those terms are defined in ORS 825.005 and who is subject to the Federal Motor Carrier Safety Regulations.

(9) "Passenger carrying vehicle" means a commercial motor vehicle designed to transport 16 or more persons, including the driver.

(10) A "qualifying vehicle" is a vehicle which can only be operated by a person possessing a CDL and is classified as follows:

(a) Class A Commercial Motor Vehicle. Any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of 10,000 pounds;

(b) Class B Commercial Motor Vehicle. Any single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR; and

(c) Class C Commercial Motor Vehicle. Any single vehicle less than 26,001 pounds GVWR, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. This class of vehicle(s) applies to vehicles which are required to be placarded for hazardous materials or designed to transport 16 or more persons, including the driver, or any vehicle owned or leased by, or operated under contract with, a mass transit district or a transportation district when the vehicle is actually being used to transport passengers for hire, regardless of the number of passengers, unless the vehicle is a taxi.

(11) "Publicly-owned and operated education facilities" include publicly-owned and operated community colleges as defined in ORS 341.005 and other publicly-owned schools, colleges and universities that offer a curriculum designed to train students to drive Class A, Class B or Class C Commercial vehicles. It does not include private or vocational schools.

(12) A "representative vehicle" is the highest classification of vehicle that a CDL authorizes a person to drive. For example, a representative vehicle for a Class A CDL is a Class A commercial motor vehicle as defined in subsection (10)(a) of this rule.

(13) A "24-hour time period" is a period that begins at 12:01 a.m. and ends at 11:59 p.m. on the same day.

(14) "Third party examiner" is an individual employed by a third party tester who is trained, tested and issued a Third Party Examiner Certificate by DMV, which authorizes the individual to conduct standardized behind the wheel drive tests to determine a driver's qualification to obtain a CDL and issue driver competency certificates.

(15) A "third party tester" is:

(a) A "person" issued a driver competency testing certificate as authorized by ORS 807.080(2), which includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies;

(b) A publicly owned and operated educational facility as authorized by ORS 807.080(4)(g), including the Oregon Department of Education; or

(c) A federal or state agency or a municipal corporation as defined by ORS 33.710(1)(b), issued a driver competency testing certificate under other circumstances established by the Department as authorized by ORS 807.070(3)(b). For purposes of these rules,

municipal corporation includes a mass transit or transportation district.

(16) The definitions of "employer" and "employee" are only applicable as those terms are used in these rules and are not intended to affect any employer or employee rights, responsibilities or obligations.

(17) A "driver competency testing certificate" is a document issued by the Department as authorized by ORS 807.080 or issued by the Department under other circumstances as authorized by ORS 807.070(3)(b).

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 807.100

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

735-060-0015

Conversion from Another Jurisdiction's Commercial Driver License

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall require an applicant for a commercial driver license in this state who has a CDL from another jurisdiction to:

(a) Take and pass the Class C knowledge test and a vision screening; and

(b) Take and pass the pre-trip inspection, drive test and knowledge test required, if the person applies for a higher class license.

(2) DMV may waive the drive tests or knowledge tests, except the Class C knowledge test and the hazardous materials endorsement knowledge test, if the applicant applies for a license equal to the CDL the applicant has been issued by another jurisdiction and the CDL has not been expired for more than one year.

(3) DMV may require any applicant to take a knowledge or drive test prior to issuing a CDL.

(4) DMV shall make an inquiry through the Commercial Driver License Information System (CDLIS) and National Driver Register before issuing a CDL. A finding of any of the following situations shall be grounds for denial of issuance of a CDL:

(a) The applicant already has a CDL, unless the CDL is surrendered to DMV;

(b) The applicant's driving privilege is suspended, revoked or canceled; or

(c) The applicant is disqualified from operating a commercial motor vehicle.

(5) The driving record of the applicant from another jurisdiction shall become a part of the Oregon driving record as provided in OAR 735-060-0017.

(6) A person shall surrender a CDL from another jurisdiction before an Oregon CDL may be issued.

(7) A person whose driving privilege has been suspended, revoked, canceled or has been disqualified from operating a commercial motor vehicle must obtain a clearance letter as provided for in OAR 735-062-0160, indicating the person has valid driving privileges in that jurisdiction before an Oregon CDL may be issued.

Stat. Auth.: ORS 184.616, ORS 807.045, ORS 807.050, ORS 807.070 & Ch. 309, OL 1993

Stats. Implemented: ORS 807.045

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93

735-060-0017

Transfer of Driver Records from Other Jurisdictions

When the driving record from another jurisdiction becomes part of the Oregon driving record under ORS 802.200(10)(e) the following shall apply:

(1) The convictions from the other jurisdiction's driving record shall be transferred using the American National Standards Institute (ANSI) standard abbreviation codes.

(2) Each driving record entry shall have the same force and effect as though entered on the driver's record in this state.

(3) No action under the Driver Improvement Program or Habitual Offender Program shall be taken until an additional conviction

or accident is entered to the driving record after the other jurisdiction's record has been transferred. At the time the additional conviction or accident is entered to the record, Driver Safety Case Management shall place the driver at the appropriate step in the Driver Improvement or Habitual Offender program.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 802.540, ORS 807.040, ORS 807.045, ORS 807.050, ORS 807.060, ORS 807.070, ORS 807.150, ORS 807.170 & ORS 809.310

Stats. Implemented: ORS 807.200

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92

735-060-0030

Qualifications for Third Party Testers

(1) To qualify as a third party tester, an applicant must meet the following:

(a) If the applicant is a motor carrier the applicant must currently have a satisfactory safety rating from the Federal Highway Administration or the Oregon Department of Transportation, Motor Carrier Transportation Branch;

(b) If the applicant is a motor carrier the applicant shall not exceed by more than 15 percentage points, in a one-year period, the industry average for out of service violations for vehicle inspections or for accidents per million miles at the time of application or at any time while certified as a third party tester. This information shall be based upon the most recent calendar year for which the Oregon Department of Transportation, Motor Carrier Transportation Branch has records;

(c) Be willing to sign and abide by all terms of a written third party tester agreement with DMV;

(d) Complete an application on a form prescribed by DMV;

(e) Have a business office, agency or facility in which driver testing records will be maintained and available for state or federal inspections or audit. Have a facility meeting the standards set forth in OAR 735-060-0070 which is available for state or federal inspection or audit, if the applicant is a publicly owned and operated educational facility or employer;

(f) Submit a written consent to random examinations, inspections and audits by DMV or Federal Highway Administration staff or representatives without prior notice;

(g) The applicant must not have a suspended or revoked Third Party Tester Certificate or Third Party Examiner Certificate issued by Oregon DMV at the time an application for a Third Party Tester Certificate is submitted to DMV;

(h) The applicant must not have been issued a Third Party Tester Certificate or Third Party Examiner Certificate in any other state that is suspended, revoked, involuntarily canceled or had the third party tester agreement involuntarily terminated within five years immediately preceding the date an application for a Third Party Tester Certificate is submitted to DMV;

(i) If the applicant is an employer, the applicant must establish an employee training and competency testing program meeting the criteria set forth in OAR 735-060-0070;

(j) Be certified as a third party examiner or employ a certified third party examiner; and

(k) Have a DMV approved driver competency testing program that meets the criteria set forth in OAR 735-060-0120.

(2) In addition to the requirements listed in section (1) of this rule, the applicant, if a publicly-owned and operated educational facility, shall:

(a) Have a campus located in Oregon;

(b) Have a course of instruction which meets the criteria set in OAR 735-060-0070 designed to teach students to drive Class A, B, or C commercial vehicles; and

(c) Agree to conduct drive tests to certify driver competency only for students who have completed the full course of instruction described in subsection (b) of this section. This does not include correspondence courses.

(3) The applicant, if the Oregon Department of Education, shall:

(a) Have a training program;

(b) Have a driver testing program;

(c) Have an examiner who meets the requirements; and

(d) Have adopted and agree to enforce administrative rules and standards for school bus drivers in Oregon as required by ORS 820.110.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0040

Inspection

(1) DMV shall inspect a third party tester applicant's facilities, testing procedures, CDL drive test route, vehicles used for testing and training curricula and instructional materials if applicable prior to issuing a Third Party Tester Certificate. Authorized representatives of DMV shall conduct the initial inspection to determine eligibility during regular business hours.

(2) DMV shall periodically inspect all third party testers to determine compliance with laws, administrative rules and regulations pertaining to the third party tester and examiner program. The third party tester must consent to random examinations, inspections and audits without prior notice by authorized representatives of DMV and/or the Federal Highway Administration.

(3) DMV shall periodically conduct an on-site inspection of all third party testers in the state of Oregon.

(4) Periodic and on-site inspections shall review:

(a) Third Party Tester records, including records of all persons for whom a drive test was conducted by the third party tester and examiner, regardless of whether the person passed or failed the test;

(b) Facilities;

(c) Training curricula, if applicable;

(d) Instructional materials, if applicable;

(e) Testing procedures;

(f) Vehicles used for testing;

(g) If the third party tester is maintaining all qualifications as listed in OAR 735-060-0030;

(h) The testing procedure of third party testers and examiners (the DMV representative shall accompany third party testers and examiners on a drive test or test a sample or all of the drivers who were examined by the third party tester and examiner to compare pass/fail results);

(i) CDL drive test route; and

(j) If the third party tester is complying with all terms of the third party tester agreement.

(5) To pass an inspection the third party tester must meet all of the requirements for certification.

(6) Refusal to permit DMV or Federal Highway Administration representatives to conduct a periodic or on-site inspection shall result in revocation of the Third Party Tester Certificate.

(7) The DMV representative who conducts the inspection shall prepare a written report on the inspection.

(8) Copies of the DMV representative's report shall be distributed as follows:

(a) The original copy to the third party tester; and

(b) DMV shall retain a copy.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0050

Issuance of Third Party Tester Certificate and Third Party Tester Responsibilities

(1) DMV may issue a Third Party Tester Certificate, to an applicant who:

(a) Meets all the requirements set forth in OAR 735-060-0030(1);

(b) Submits the following to DMV, Third Party Testing, 1905 Lana Avenue NE, Salem, Oregon 97314:

(A) A completed application for a Third Party Tester Certificate, DMV Form 6766;

(B) The signed original Third Party Tester Agreement between the Department of Transportation and the applicant;

(C) An outline of the training curriculum given to employees of the employer if required by OAR 735-060-0030(1)(i) or a statement indicating that a commercial truck or bus driver training school will be used for training and that such school meets the training criteria set forth in OAR 735-060-0070. If a commercial truck or bus driver training school is used, the employer must provide the school's name and address to DMV;

(D) A proposed drive test route(s) which meets the criteria set forth in OAR 735-060-0120;

(E) A written consent to periodic and on-site inspections by representatives of DMV and/or the Federal Highway Administration; and

(F) The name of an individual(s) who will apply for certification as a third party examiner.

(2) DMV may issue a Third Party Tester Certificate, to publicly-owned and operated educational facilities that meet all of the following requirements:

(a) Meet all the eligibility requirements set forth in OAR 735-060-0030(1) and (2);

(b) Submit the following to DMV, Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314:

(A) A completed application for a Third Party Tester Certificate, DMV Form 6766;

(B) The signed original Third Party Tester Agreement between the Department of Transportation and the publicly owned and operated educational facility;

(C) An outline of the Class A, B, or C commercial driver training curriculum which meets the requirement set forth in OAR 735-060-0070;

(D) A proposed drive test route(s) which meets the criteria set forth in OAR 735-060-0120; and

(E) Submit the name of the instructor(s) who will apply for certification as a third party examiner.

(3) DMV may issue a Third Party Tester Certificate, to the Oregon Department of Education for the purpose of certifying the driving competency of school bus drivers if the Oregon Department of Education complies with all of the following:

(a) Meets all the eligibility requirements set forth in OAR 735-060-0030 (1) and (3);

(b) Submits the following:

(A) A completed application for a Third Party Tester Certificate, DMV Form 6766;

(B) The original Third Party Tester Agreement between the Department of Transportation and the Department of Education, signed by an authorized representative of the Department of Education;

(C) A statement from the Pupil Transportation Section that the training program meets the requirements of OAR 581-053-0006; and

(D) A statement from the Pupil Transportation Section that all third party examiners have in their files a copy of the proposed drive test route(s) which meets the criteria set forth in OAR 735-060-0120.

(4) A Third Party Tester Certificate shall be valid for two years, unless suspended or revoked. An original certificate shall expire two years from the month of issue, for example, a certificate issued on April 2, 1990, will expire April 30, 1992.

(5) To renew a Third Party Tester Certificate, the third party tester to whom it was issued shall meet all the same requirements necessary to obtain the original certificate, as provided for in OAR 735-060-0030.

(6) DMV shall notify third party testers of the pending expiration of their Third Party Tester Certificate approximately 60 days prior to the expiration of the certificate.

(7) DMV shall issue a replacement Third Party Tester Certificate:

(a) To replace a lost, mutilated or destroyed Third Party Tester Certificate; and

(b) If the third party tester submits a written request indicating the reason for the replacement to DMV, attention: Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314.

(8) To apply for a replacement Third Party Examiner Certificate, the third party tester must submit a written request indicating the reason for the replacement to DMV, Third Party Testing Program, 1905 Lana Avenue NE, Salem, OR 97314.

(9) All third party testers shall:

(a) Conduct a minimum of 12 class A, B or C commercial drive tests within a 12-month period starting with the issuance date of a Third Party Tester certificate, except for those third party testers who were issued an original Third Party Tester Certificate prior to January 1, 1998;

(b) Notify DMV in writing within 10 days of any change in:

(A) The third party tester's address;

(B) The location where the training or testing is conducted; or

(C) The third party examiner for the third party tester.

(c) Notify DMV in writing within 10 days if:

(A) The third party tester goes out of business;

(B) The third party tester does not meet the requirements set forth in this rule;

(C) The third party examiner discontinues employment with the third party tester; or

(D) The third party examiner does not meet the requirements set forth in OAR 735-060-0090 and 735-060-0100.

(d) Ensure that all third party examiners employed by the third party tester remain in compliance with any administrative rules and regulations governing third party examiners;

(e) Allow representatives of DMV and/or the Federal Highway Administration to conduct random periodic inspections without prior notice;

(f) Correct any deficiencies identified by the Federal Highway Administration or its representative or DMV during a periodic or on-site inspection within 30 days of being notified of such deficiencies;

(g) Have the right to refuse to issue a certificate of competency to any person and require the person be tested by DMV; and

(h) Comply with all statutes, administrative rules and regulations related to the third party testing program and with all terms of the Third Party Testing Agreement.

(10) In addition to the third party tester responsibilities listed in section (9) of this rule, all third party testers shall:

(a) Maintain the eligibility requirements set forth in OAR 735-060-0030(1), (2) and (3);

(b) Not test drivers who are enrolled or have been enrolled in their own driver training program within the past 12 months if the tester is a commercial truck or bus driver training school. An exception to this requirement are those testers who train and test their own employees;

(c) Maintain records of all CDL drive tests conducted by the third party tester, regardless of whether the individual tested passed or failed the test. Each record shall include:

(A) The complete name of the individual tested;

(B) The driver license number and the state that issued the license of the individual tested;

(C) The social security card number of the individual tested;

(D) The date the individual took the drive test;

(E) The drive test score sheet showing the results of test conducted;

(F) The name and certificate number of the third party examiner conducting the CDL drive tests;

(G) If the third party tester is an employer, a certification signed and dated by the third party tester and employee, showing the employee completed the employer's driver training program if required by OAR 735-060-0030(1)(i), or the information required under OAR 735-060-0080 if the training is waived because of prior experience or training; and

(H) If the third party tester is an employer, notification as required by federal law or regulation of any traffic violation or suspension, revocation, cancellation or disqualification in which the employee is involved and a copy of the employee's Oregon driving record issued by DMV within the past year.

(d) Maintain a third party tester's monthly log of all CDL tests conducted. The original log shall be kept at the business office, agency or facility of the third party tester and a copy shall be submitted to DMV by the 5th day of the following month.

(e) Maintain the records required in section (10)(c) of this section for at least four years from the date of the drive test. The records shall be kept at the business office, agency or facility of the third party tester.

(11) In addition to the third party tester responsibilities listed in section (9) and (10) of this rule, a publicly-owned and operated educational facility that is issued a Third Party Tester Certificate shall:

(a) Maintain the eligibility requirements set forth in OAR 735-060-0030(1) and (2);

(b) Maintain records of each student for whom it conducts a CDL drive test, regardless of whether the student passed or failed the test. Each record shall include:

(A) The complete name of the student tested;

(B) The driver license number and the state that issued the license of the student tested;

(C) The social security card number of the student tested;

(D) The date the student took the CDL drive test;

(E) The drive test score sheet showing the results of test conducted;

(F) A certification signed and dated by the third party tester and student showing the student completed the education facility's driver training program;

(G) The name and certificate number of the third party examiner conducting the CDL drive test; and

(H) A copy of the student's Oregon driving record issued by DMV within the past year.

(c) Maintain the records required in subsection (10)(c) of this rule for at least four years from the date of the drive test. The records shall be kept at the facility of the third party tester; and

(d) Maintain a third party tester's monthly log of all CDL tests conducted. The original log shall be kept at the facility of the third party tester and a copy shall be submitted to DMV by the 5th day of the following month.

(12) In addition to the third party tester responsibilities listed in section (9) and (10) of this rule, the Oregon Department of Education school bus driver certification program shall:

(a) Maintain the eligibility requirements set forth in OAR 735-060-0030(1) and (3);

(b) Maintain records of each applicant for a school bus driver certificate for whom it conducts a CDL drive test, regardless of whether the applicant passed or failed the test. Each record shall include:

(A) The complete name of the applicant tested;

(B) The driver license number and the state that issued the license of the applicant tested;

(C) The social security card number of the applicant tested;

(D) The date the applicant took the CDL drive test;

(E) The drive test score sheet showing the results of the test conducted;

(F) A certification signed and dated by the third party tester and applicant showing the applicant completed the driver training program required by the Department of Education, or the information required under OAR 735-060-0080 if the training is waived because of prior experience or training;

(G) The name and certificate number of the third party examiner conducting the CDL drive tests;

(H) Notification as required by federal law or regulation of any traffic violation or suspension, revocation, cancellation of driving privileges or disqualification in which the applicant is involved; and

(I) A copy of the applicant's Oregon driving record issued by DMV within the past year.

(c) Maintain the records required in subsection (12)(b) of this rule for at least four years from the date of the drive test; and

(d) Maintain a third party tester's monthly log of all CDL tests conducted. The original log shall be kept at the facility of the third party tester and a copy shall be submitted to DMV by the 5th day of the following month.

(13) A third party tester shall not:

(a) Falsify any records;

(b) Permit anyone except a third party examiner to conduct CDL drive tests or to issue Certificates of Competency;

(c) Transfer its Third Party Tester Certificate to any other person, employer, or publicly-owned and operated educational facility; or

(d) Permit a third party examiner to issue Certificates of Competency to any person who:

(A) Is not a student of the publicly-owned and operated educational facility, except as provided in OAR 735-060-0100(9);

(B) Was not tested in accordance with OAR 735-060-0120;

(C) Failed the drive test; or

(D) Did not complete the third party tester's driver training program as required by OAR 735-060-0030(1)(i).

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0060

Suspension or Revocation of a Third Party Tester Certificate

(1) DMV may suspend or revoke the Third Party Tester Certificate of any third party tester that:

(a) Fails to comply with the requirements set forth in OAR 735-060-0050(9); or

(b) Commits any of the prohibitions set forth in OAR 735-060-0050.

(2) In addition to the grounds for suspension or revocation indicated in section (1) of this rule, DMV may suspend or revoke the Third Party Tester Certificate of any third party tester who fails to comply with the requirements set forth in OAR 735-060-0050(10).

(3) In addition to the grounds for suspension or revocation indicated in section (1) of this rule, DMV may suspend or revoke the Third Party Tester Certificate of any publicly-owned and operated educational facility that fails to comply with the requirements set forth in OAR 735-060-0050(11).

(4) In addition to the grounds for suspension or revocation in section (1) of this rule, DMV may suspend or revoke the Third Party Tester Certificate of the Oregon Department of Education if it fails to comply with the requirements set forth in OAR 735-060-0050(12).

(5) Failure to comply with any of the requirements set forth in OAR 735-060-0050(9) through (12) may result in the following sanctions:

(a) First offense: DMV shall mail a warning letter to the third party tester. The third party tester must fully comply with all requirements within 30 days from the date of the warning letter or DMV shall suspend the Third Party Tester Certificate until such full compliance; and

(b) Second and subsequent offenses: DMV shall suspend the Third Party Tester's Certificate for one year.

(6) Notwithstanding section (5) of this rule, DMV shall suspend or revoke the third party tester certificate of a motor carrier who does not maintain the eligibility requirements set forth in OAR 735-060-0030(1)(a) or (b). The suspension or revocation shall be for the following lengths of time:

(a) First offense: The suspension shall be for one year; and

(b) Second and subsequent offenses: The revocation shall be for five years.

(7) DMV shall revoke a certificate if the third party tester violates the prohibitions set forth in OAR 735-060-0050(13). The revocation shall be for the following lengths of time:

(a) First offense: The revocation shall be for three years; and

(b) Second and subsequent offenses: The revocation shall be for five years.

(8) Whenever DMV takes action to suspend or revoke a Third Party Tester Certificate, DMV shall:

(a) Notify the third party tester in writing that the suspension or revocation begin 30 days from the date of the notice, unless a hearing is requested. The notice shall be served by certified mail to the business address of the third party tester; and

(b) If requested, afford the third party tester a contested case hearing before a representative of DMV conducted in accordance with ORS 183.310 to 183.550.

(9) To request a hearing, the third party tester must submit a written request for hearing to DMV, Hearings Case Management Unit, 1905 Lana Ave. NE, Salem, Oregon 97314. The request must be received by DMV within 20 days of the date of the notice of suspension or revocation. The suspension or revocation shall not take effect pending outcome of the hearing.

(10) If a Third Party Tester Certificate has been suspended or revoked, the third party tester, must re-apply for certification after the period of suspension or revocation and must meet the requirements set forth in OAR 735-060-0030.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080
 Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 807.100
 Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0650; 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

735-060-0070

Standards for Third Party Tester Driver Training Program

(1) DMV adopts the United States Department of Transportation's Commercial Driver's License Standards, Required Knowledge and Skills, 49 CFR sections 383.110 to 383.113, in effect on January 1, 1998 and prescribes that these standards are to be observed in training and testing for commercial driver licensing. A copy of these standards is available by writing to the Willamette Traffic Bureau, 1444 SE Hawthorne, Portland, Oregon 97214.

(2) A third party tester who is required to have a training program as set forth in OAR 735-060-0030(1)(i) shall:

- (a) Have a training program that is approved by DMV; or
- (b) Use the training services of a commercial truck or bus driver training school that is approved by the Oregon Department of Education.

(3) To be approved by DMV, the training program shall include, but is not limited to:

(a) Instruction that includes information specific to trucks and combinations of vehicles that is included in the "Oregon Commercial Motor Vehicle Operator's Manual;" and

(b) Practical in-vehicle instruction.

(4) The practical in-vehicle instruction shall include, but is not limited to, the following:

- (a) Placing the vehicle into operation, including:
 - (A) Pre-trip inspection;
 - (B) Starting the engine;
 - (C) Knowledge of the gauges; and
 - (D) Starting, stopping, backing and turning.
- (b) Use of the vehicle controls and emergency equipment;
- (c) How to check and use the brake system. If the vehicle is equipped with air brakes, training shall include:

- (A) The components of an air brake system;
- (B) Pre-service inspection of the air brake system;
- (C) Connecting air hoses for combinations of vehicles (if applicable);

- (D) Charging trailer brake systems (if applicable);
- (E) Testing of the brake systems; and
- (F) Adjusting air-brake systems (if applicable and if employee is required to do so by employer).

(d) Coupling and uncoupling of a combination of units (if applicable); and

(e) Operation of a vehicle or combination of vehicles in traffic and terminal area.

(5) The instruction required under sections (3) and (4) of this rule shall be consistent with the standards in the Oregon CDL Examiner's Manual and Oregon Commercial Motor Vehicle Operator's Manual.

[Publications: Publications referenced are available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080
 Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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 735-031-0660; MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98

735-060-0080

Who Must Have Training

(1) All persons applying for certification from a third party tester shall:

(a) Successfully complete a training program as described in OAR 735-060-0070;

(b) If the third party tester is an employer who test their own employees, the employee shall submit evidence of experience to their employer showing the employee has had at least two years' experience with the present employer or past employer(s) immediately preceding employment as a driver of vehicle(s) from the class for which the certification will be made; or

(c) If the third party tester is an employer who test their own employees, the employee shall submit evidence of successful completion of a Department of Education approved commercial truck driving training school curriculum within one year of his or her employment by the third party tester.

(2) The evidence of experience or training required in subsection (1)(b) or (c) of this rule may include:

- (a) Prior employment records;
- (b) Certificate of completion of driver training program; or
- (c) Other documentation that provides proof the person has been driving a vehicle from a representative class.

(3) When the third party tester is an employer and accepts evidence of experience or training in lieu of conducting the training program described in OAR 735-060-0070, the third party tester shall:

(a) Record the nature and extent of the employee's driving experience or training, including the type of equipment that has been driven, such as a two-axle truck, three-axle truck, bus, tractor-trailer or truck-trailer;

(b) Record the name of the employee's previous employer or name of the training facility; and

(c) Place this information in the employee's file maintained by the third party tester so it will be available for inspection by the Federal Highway Administration, its representative or the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(4) All persons applying for certification as school bus drivers from the Oregon Department of Education shall successfully complete the training and testing required by OAR 581-053-0006(1)(c), (e) and one of either (f) or (h).

(5) Any person failing the CDL drive test described in OAR 735-060-0120 shall be provided training before a subsequent test is conducted by the third party tester who is an employer who tests employees of the third party tester in those areas where the person demonstrated a lack of skill or knowledge.

(6) The training described in section (5) of this rule must be completed before the person may be granted another CDL drive test. Further drive tests shall not be conducted until the employee has waited for the period of time prescribed in OAR 735-062-0070.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080
 Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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 735-031-0665; 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

735-060-0090

Eligibility Requirements for Third Party Examiner Certificate

(1) To qualify as a third party examiner, an applicant must meet the following requirements:

(a) Be an employee of a third party tester or an employee of an applicant for a third party tester certificate;

(b) Must not have:

(A) Been convicted of any major traffic offense as defined in ORS 153.500(5) within the five years immediately preceding the date of application for a Third Party Examiner Certificate;

(B) Been enrolled or participated in a DUI diversion program in this state or in a similar program in any other state within the three years immediately preceding the date of application for a Third Party Examiner Certificate;

(C) Been involved in any step of DMV's driver improvement program within the one year immediately preceding the date of application for a Third Party Examiner Certificate. However, if more than one year has elapsed since the date of the last citation that put the person in DMV's driver improvement program, the person is eligible to apply for a Third Party Examiner Certificate. DMV's driver

improvement program is described in OAR 735-072-0000 through 735-072-0070;

(D) Had their driving privileges suspended, revoked, canceled or disqualified within two years immediately preceding the date of application for a Third Party Examiner Certificate;

(E) Must not have a suspended or revoked Third Party Tester Certificate or Third Party Examiner Certificate issued by Oregon DMV at the time an application for a Third Party Examiner Certificate is submitted to DMV; or

(F) Must not have a Third Party Tester Certificate or Third Party Examiner Certificate which is suspended, revoked, involuntarily canceled or had the third party tester agreement involuntarily terminated in an other state within five years immediately preceding the date an application for a Third Party Examiner Certificate is submitted to DMV.

(c) Except as provided in section (3) of this rule, must have and maintain a valid Oregon commercial driver license that authorizes the driving of vehicles from the classification for which the person will be conducting drive tests. A hardship or probationary permit is not considered a valid license. The person also must have the proper endorsement for the vehicle being operated; and

(d) Must have completed the third party examiner training course required in OAR 735-060-0095.

(2) If the person does not have an Oregon commercial driver license that authorizes the driving of vehicles from the classification for which the person will be conducting drive tests, the person shall:

(a) Have a valid out-of-state commercial driver license with the proper endorsements; and

(b) Meet the medical standards established by DMV for the operation of commercial motor vehicles (an approved medical waiver is acceptable).

(3) In addition to the requirements of section (1) of this rule, a person conducting drive tests for school bus drivers for the Oregon Department of Education shall:

(a) Be certified by the Oregon Department of Education as a behind-the-wheel examiner; and

(b) Meet the requirements set forth in OAR 581-053-0006.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0095

Third Party Examiner Training

(1) DMV adopts the United States Department of Transportation's Commercial Driver's License Standards, Required Knowledge and Skills, 49 CFR sections 383.75, 383.131 through 383.135, in effect on January 1, 1998, and prescribes that these standards are to be observed in training and testing for commercial driver licensing. A copy of these standards is available by writing to the Willamette Traffic Bureau, 1444 SE Hawthorne, Portland, Oregon 97214.

(2) An applicant for a third party examiner certificate must successfully complete the third party examiner training course as described in section (3) of this rule.

(3) The third party examiner training course shall consist of instruction in all of the following:

(a) How to conduct the drive tests;

(b) How to score the drive test and minimum passing scores;

(c) How to select a drive test route;

(d) The skills to be tested;

(e) Where and how the skills will be tested;

(f) How the performance of the skills will be scored;

(g) Causes for automatic failure of skills tests;

(h) A review of the responsibilities of the third party examiner, including but not limited to maintaining records and proper completion of forms; and

(i) Information contained in the Oregon CDL Examiner's Manual and the Oregon Commercial Motor Vehicle Operator's Manual available from DMV.

(4) Upon successful completion of the third party examiner training the training course instructor shall submit a copy of the class roster and indicate on the roster those individuals who passed the training course.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 807.100

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 1-1998, f. & cert. ef. 1-26-98

735-060-0100

Issuance of Third Party Examiner Certificate and Third Party Examiner Responsibilities

(1) DMV shall issue a Third Party Examiner Certificate, Form 6767, to an applicant who:

(a) Meets all the eligibility requirements set forth in OAR 735-060-0090(1);

(b) Submits a completed Application for a Third Party Examiner Certificate, Form 6767, to: DMV, Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314; and

(c) Successfully completes the third party examiner training course.

(2) In addition to the eligibility requirements set forth in OAR 735-060-0090(1), a third party examiner who tests school bus drivers for the Oregon Department of Education must meet the eligibility requirements set forth in OAR 735-060-0090(3).

(3) A Third Party Examiner Certificate shall be valid for two years, unless suspended or revoked. The original certificate shall expire two years from the month of issue. For example, a certificate issued August 1, 1997, will expire August 31, 1999.

(4) To renew a Third Party Examiner Certificate, the third party examiner must meet all the same eligibility requirements necessary to obtain an original certificate.

(5) DMV shall notify the third party tester that employs a third party examiner of the pending expiration of the Third Party Examiner Certificate approximately 60 days prior to the expiration of the certificate.

(6) DMV shall issue a replacement Third Party Examiner Certificate if:

(a) The Third Party Examiner certifies that the original certificate has been lost, mutilated or destroyed; or

(b) A third party examiner changes employers; and

(A) The new third party tester has been issued a Third Party Tester Certificate; and

(B) The examiner still meets the eligibility requirements set forth in OAR 735-060-0090.

(7) To apply for a replacement Third Party Examiner Certificate, the person must:

(a) Submit a written request to DMV, Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314; and

(b) Indicate the reason for the replacement.

(8) A third party examiner shall:

(a) Remain in compliance with the eligibility requirements set forth in OAR 735-060-0090(1);

(b) Ensure that training, if required, is conducted as set forth in OAR 735-060-0070;

(c) Properly complete all forms and applications required by DMV;

(d) Conduct the certification drive test for drivers as set forth in OAR 735-060-0120;

(e) Issue Certificates of Competency only for the classes of license authorized by DMV;

(f) Not test drivers who they have trained to meet the standards necessary to pass the CDL drive test except as provided in OAR 735-060-0030(1)(i);

(g) Maintain a third party tester's monthly log of all CDL tests conducted. The original log shall be kept at the business office, agency or facility of the third party tester and a copy shall be submitted to DMV by the 5th day of the following month;

(h) Notify DMV in writing within 10 days of any change in the third party tester's training curriculum if required by OAR 735-060-0030(1)(i);

(i) When issuing a Certificate of Competency, the third party examiner shall:

(A) Place the Certificate of Competency in an envelope and then seal the envelope;

(B) Instruct the tested driver to take the envelope unopened to a DMV office within 15 days of the date it is issued; and

(C) Advise the tested driver that DMV will not accept the Certificate of Competency if it is delivered after 15 days from the date of the test or if the envelope is opened prior to delivery to DMV.

(j) Maintain records for four years of all employees who receive a drive test, regardless of whether they pass or fail;

(k) Successfully complete any additional training when required by DMV; and

(l) Comply with all statutes, administrative rules and regulations related to the third party testing program.

(9) A third party examiner for the Oregon Department of Education may conduct CDL drive tests for any applicant for a school bus driver certificate who is subject to the provisions of OAR 581-053-0006. A third party examiner while certified by the Oregon Department of Education, is restricted to conducting CDL drive tests only for applicants for a school bus driver certificate subject to the provisions of OAR 581-053-0006.

(10) A third party examiner shall not:

(a) Have more than one valid driver license issued by more than one jurisdiction.

(b) Sign or issue a Certificate of Competency to any individual:

(A) To whom the third party examiner did not administer the drive test in accordance with OAR 735-060-0120;

(B) Who did not pass the drive test set forth in OAR 735-060-0120 or 581-053-0006(1)(c);

(C) Who did not complete the driver training program as described in OAR 735-060-0070 or 581-053-0006(1)(e) and one of either (f) or (h) if required to do so; or

(D) Who does not have valid driving privileges or their driving privileges are currently suspended, revoked, canceled or they are otherwise currently disqualified by the Secretary of the United States Department of Transportation or designee. A hardship or probationary permit does not constitute valid driving privileges.

(c) Falsify any records;

(d) Conduct drive tests unless certified by DMV; or

(e) Transfer his or her Third Party Examiner Certificate to any other person.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0110

Suspension or Revocation of a Third Party Examiner Certificate

(1) DMV may suspend or revoke the Third Party Examiner Certificate of any examiner who:

(a) Fails to comply with the requirements set forth in OAR 735-060-0100(8); or

(b) Commits any of the prohibitions set forth in OAR 735-060-0100(9) and (10).

(2) A violation of any of the requirements set forth in OAR 735-060-0100(8) may result in the following sanctions:

(a) First offense: DMV shall mail a warning letter to the third party examiner. The third party examiner must fully comply with all requirements within 30 days from the date of the warning letter or DMV shall suspend the Third Party Examiner Certificate until such full compliance;

(b) Second and subsequent offenses: DMV shall suspend the Third Party Examiner Certificate for one year.

(3) A revocation based on a violation of any of the prohibitions set forth in OAR 735-060-0100(9) and (10) shall be for the following lengths of time:

(a) First offense: The revocation shall be for three years; and

(b) Second and subsequent offenses: The revocation shall be for a period of five years.

(4) Whenever DMV takes action to suspend or revoke a Third Party Examiner Certificate, DMV shall:

(a) Notify the person and the person's third party tester in writing that the suspension or revocation shall begin 30 days from the date of the notice, unless a hearing is requested. The notice shall be served by certified mail to the business address of the third party examiner; and

(b) If requested, afford the third party examiner a contested case hearing before a representative of DMV conducted in accordance with ORS 183.310 to 183.550.

(5) If the driving privileges of the third party examiner are suspended, revoked, canceled or otherwise disqualified, the third party examiner certificate shall be immediately suspended until such time as the third party examiner obtains valid driving privileges. A hardship or probationary permit does not constitute valid driving privileges.

(6) To request a hearing, the third party examiner must submit a written request for hearing to: DMV, Hearings Case Management Unit, 1905 Lana Ave. NE, Salem, Oregon 97314. The request must be received by DMV within 20 days of the date of the notice of suspension or revocation. The suspension or revocation shall not take effect pending outcome of the hearing.

(7) If a Third Party Examiner Certificate has been suspended or revoked, the third party examiner must re-apply for certification after the period of suspension or revocation and must meet the requirements set forth in OAR 735-060-0090.

(8) Except as otherwise provided by OAR 735-060-0100(6)(b), if a third party examiner discontinues employment with a third party tester he or she shall surrender the Third Party Examiner Certificate to DMV within ten days. Failure to do so shall result in a suspension or revocation of the Third Party Examiner's Certificate.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 807.100

Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0690; 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

735-060-0120

The Certification Drive Test

(1) The drive test conducted under the certification program shall be conducted by a third party examiner. The third party examiner shall be:

(a) Certified by DMV; and

(b) Restricted to conducting no more than eight CDL Class A, B, or C pre-trip inspections and drive tests within a 24-hour period and must begin and end all pre-trip inspections and drive tests in daylight hours.

(2) The drive test shall be conducted in Oregon.

(3) The third party examiner shall do the following before administering a drive test:

(a) Check the driving privilege status of the driver being tested. A drive test shall not be administered if the examiner has reason to believe that the driver's driving privileges are suspended, revoked, canceled or have otherwise been disqualified;

(b) Ensure the person being tested has a valid CDL instruction permit as required by law;

(c) View an approved Medical Certificate or a Medical Waiver for the person being tested that meets the standards contained in Title 48, Chapter III, Section 391.41 – 391.49 of the Federal Motor Carrier Safety Regulations; and

(d) Conduct the CDL Class A, B, or C pre-trip inspection and the on-road test in the same vehicle within the same 24-hour period.

(4) The drive test shall be conducted in accordance with the standards adopted in OAR 735-060-0070(1) and 735-060-0095(1) and shall include, but not be limited to, the following:

(a) A pre-trip inspection. This test is designed to evaluate the driver's ability to identify and operate vehicle equipment and to detect and identify unsafe equipment items. The specific items that must be inspected during a pre-trip inspection are listed in the Oregon Department of Transportation CDL Examiner's Manual; and

(b) An on-road drive test. This test is designed to evaluate the driver's ability to operate a vehicle or combination of vehicles in a

safe manner under actual driving conditions. The test must determine if the driver being tested can demonstrate safe and proper driving methods and procedures and knowledge of traffic laws.

(5) The drive test route shall:

(a) Be designed to enable the third party examiner to evaluate the ability of the driver to perform the maneuvers listed in the Oregon Department of Transportation CDL Examiner's Manual;

(b) Include public roadways where trucks are permitted, highways, and the terminal area; and

(c) Meet the specifications outlined in the Oregon CDL Examiner's Manual.

(6) The vehicle or combination of vehicles used for the drive test shall:

(a) Be from the class for which a license is sought; and

(b) Need not be loaded if the vehicle or combination of vehicles when empty qualifies for the class for which a license is sought. However, the test shall be conducted and scored as if the vehicle or combination of vehicles were loaded.

(7) DMV shall require that the drive test route be approved prior to its use.

(8) The drive test administered by a third party examiner shall be the same drive test administered by DMV examiners. The third party examiner must use the drive test score sheet approved by DMV.

(9) The pre-trip inspection and drive test shall be administered in accordance with the methods and procedures described in the Oregon Department of Transportation CDL Examiner's Manual.

(10) The waiting times between drive tests are the same as those provided for in OAR 735-062-0070.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0130

The Certificate of Competency

(1) DMV shall waive the actual demonstration of an applicant's ability to drive Class A, B, or C commercial motor vehicle under ORS 807.070(3)(b) if the applicant submits to DMV a Certificate of Competency.

(2) A Certificate of Competency, Form 6771, shall be accepted only when it is submitted by an applicant who:

(a) Has passed a Commercial A, B, or C drive test meeting the standards set forth in OAR 735-060-0120;

(b) Has valid driving privileges 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 commercial driver license.

(3) The Certificate of Competency shall be:

(a) On the Certificate of Competency, Form 6771, provided by DMV;

(b) Completed by a third party examiner certified by DMV;

(c) Completed in its entirety; and

(d) Submitted to DMV in an envelope sealed by the third party examiner within 15 days of the date of the drive test.

(4) A Certificate of Competency, Form 6771, shall not be accepted when:

(a) The applicant for a CDL:

(A) Is applying to DMV to become a third party examiner; or

(B) Failed a drive test for a license of the same class or a lower class conducted by DMV within seven days of the date of the Certificate of Competency, Form 6771, was submitted to DMV.

(b) The Certificate of Competency is submitted in an envelope that has been opened prior to its being submitted to DMV;

(c) The Certificate of Competency includes any alterations;

(d) The Certification of Competency is submitted more than 15 days after the date of the drive test; or

(e) The applicant was not tested by a third party examiner who is certified by DMV.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 807.080

Stats. Implemented: ORS 807.040, ORS 807.070 & ORS 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

735-060-0140

Medical Standards for Drivers of Commercial Motor Vehicles

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) adopts the United States Department of Transportation standards pertaining to physical qualifications for drivers of commercial motor vehicles. These standards are contained in **Title 49, Chapter III, Sections 391.41 through 391.49 of the Federal Motor Carrier Safety Regulations**. Section 391.41(c) relating to controlled substance testing is not adopted.

(2) DMV may issue a Class A, B, or C commercial driver license to a person who does not meet the standards adopted in section (1) of this rule if:

(a) DMV receives a favorable recommendation that the person be licensed to drive Class A, B, or C commercial motor vehicles. The recommendation must be in the form of:

(A) A Medical Waiver Certificate, Form 6783, issued by the State Health Division, Drivers Medical Certification Program; or

(B) A Waiver of Disqualifying Disability, issued by the Oregon Public Utility Commission, indicating the vehicle(s) for which the waiver is granted.

(b) The person passes a driving test in a Class A, B, or C commercial motor vehicle, demonstrating the ability to compensate for the condition to be waived.

NOTE: Copies of Title 49, Chapter III, Sections 391.41 through 391.49 of the Federal Motor Carrier Safety Regulations may be obtained from the U.S. Government Bookstore, 915 Second Avenue, Seattle, WA 98174.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807 & Ch. 636, OL 1989

Stats. Implemented: ORS 807.040 & ORS 807.100

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

735-060-0150

Who Must Have an Approved Medical Certificate

(1) A person with a Class A, B, or C commercial license who drives any Class A, B, or C commercial motor vehicle must have an approved medical certificate in their immediate possession.

(2) To be an approved medical certificate:

(a) It must be listed in OAR 735-060-0160; and

(b) The date of examination indicated on the medical certificate shall not be more than two years prior to the date of the operation of the vehicle.

(3) A person who does not have a valid medical certificate approved by the Driver and Motor Vehicle Services Branch of the Department of Transportation may drive only Class C vehicles even if the person has a Class A, B, or C commercial driver license.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807 & Ch. 636, OL 1989

Stats. Implemented: ORS 807.040 & ORS 807.100

Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0740; MV 6-1990, f. & cert. ef. 4-2-90

735-060-0160

Approved Medical Certificates

The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) approves the following as medical certificates for use when driving Class A, B, or C commercial motor vehicles within Oregon:

(1) Medical Certificate, Form 6773 (issued by DMV);

(2) Medical Waiver Certificate, Form 6783 (issued by DMV);

(3) Medical Examiner's Certificate, Form 201 (issued by the Oregon Public Utility Commission);

(4) Waiver of Disqualifying Disability (issued by the Oregon Public Utility Commission);

(5) Medical Examiners Certificate (issued by the Federal Department of Transportation);

(6) Oregon School Bus Driver's Certificate or Oregon School Bus Driver's Permit (issued by the State Board of Education); and

(7) Any other medical certificate that complies with **Title 49, Chapter III, Sections 391.41 through 391.49, of the Federal Motor**

Carrier Safety Regulations. Compliance with these requirements must be explicitly stated on the medical certificate issued.

[Publications: Publications referenced are available from the agency.] Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807 & Ch. 636, OL 1989 & Ch. 185, OL 1991 Stats. Implemented: ORS 807.040 & ORS 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

735-060-0170

Medical Certificate Procedures

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall issue a Class A, B, or C commercial driver permit or license only to applicants who present an approved medical certificate when applying for an original Class A, B, or C commercial permit or driver license.

(2) To be an approved medical certificate, it must be:

(a) Listed in OAR 735-060-0160; and

(b) Issued within two years of the date of the application for license.

(3) An applicant for renewal of a Class A, B, or C commercial driver license used in interstate operations must certify on the renewal application he or she meets all of the driver qualification requirements as required by Part 38, § 383.71(c)(1) of the Federal Motor Carrier Safety Regulations (FMCSR) of the U.S. Department of Transportation (codified at 49 CFR § 383.71).

(4) A person who renews a Class A, B, or C commercial driver license by mail (when eligible to receive a driver license extension) must certify on the renewal application that he or she meets all of the driver qualification requirements as required by part 383, §383.71(c)(1) of the Federal Motor Carrier Safety Regulations (FMCSR) of the U.S. Department of Transportation (codified at 49 CFR § 383.71).

(5) DMV shall return a Class A, B, or C commercial driver license renewal application to a licensee who does not certify he or she meets all the driver qualification requirements as required in subsections (3) and (4) of this rule.

(6) DMV may issue a Class C or Class C restricted driver license to a person who applies for the renewal of a Class A, B, or C commercial driver license if the person cannot certify he or she meets the driver qualification requirements as required in subsections (3) and (4) of this rule. The lower class of license issued shall be the class requested by the applicant. When this is done, the person must go to a DMV office to receive a new license.

(7) A driver who needs to replace a medical certificate because it is lost, mutilated, or destroyed may obtain a duplicate from the same source from which they obtained the original medical certificate.

(8) DMV is not responsible for any expenses an applicant may incur from the acquisition of an approved medical certificate or duplicate medical certificate.

[Publications: Publications referenced are available from the agency.] Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.040
Stats. Implemented: ORS 807.040 & ORS 807.100
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

DIVISION 61

THIRD PARTY TESTING FOR CLASS C DRIVER LICENSES AND PERMITS

735-061-0010

Purpose

(1) The purpose of OAR 735-061-0010 through 735-061-0200 is to establish criteria by which third party testers and examiners are authorized to give knowledge, safe driving practices and driving skills tests to Class C driver license and permit applicants.

(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 business on behalf of the department.

(3) These rules are adopted as part of a pilot program whereby the department will enter into agreements with certified third party testers to perform Class C knowledge, safe driving practices and driving skills testing on behalf of the department.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0020

Definitions

(1) The following definitions apply to terms in OAR 735-061-0010 through 735-061-0200:

(a) A "Certificate of Test Completion" is a document issued to an applicant for a Class C license or permit by a third party examiner that certifies that the applicant has successfully passed a written knowledge test, safe driving practices test and/or a standardized behind the wheel drive test;

(b) The "Class C Third Party Examiner Certificate" is a document issued by DMV that authorizes a third party examiner to conduct on behalf of DMV, a written knowledge test, written safe driving practices test and/or standardized behind the wheel drive test to an applicant for a Class C driver license or permit;

(c) A "Class C Third Party Tester Agreement" is a written and enforceable agreement between a Class C third party tester and the Department of Transportation;

(d) A "Class C Third Party Tester Certificate" is a document issued by DMV that authorizes a third party tester to administer on behalf of DMV, knowledge testing, safe driving practices testing and/or standardized behind the wheel drive testing for applicants for a Class C driver license or permit;

(e) "DMV" means the Driver and Motor Vehicle Services Division of the 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 includes any of the following:

(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) An "inspector" is a DMV representative authorized to inspect and audit Class C third party testers;

(i) "Jurisdiction" means any State, Commonwealth, District or Territory of the United States of America or any province of Canada that has legal authority to issue driver licenses;

(j) A "third party examiner" is any individual who is issued a Class C Third Party Examiner Certificate by DMV; and

(k) A "third party tester" is an entity issued a Class C Third Party Tester Certificate.

(2) The definition "employee" is only applicable as used in OAR 735-061-0010 through 735-061-0200. It is not intended to affect any employer or employee rights, responsibilities or obligations.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0030

Class C Third Party Testing — General Provisions

(1) DMV may issue a Certificate to a Class C Third Party Tester or Class C Third Party Examiner who has met all qualifications and requirements set forth in OAR 735-061-0040 through 735-061-0200.

(2) DMV shall accept test scores of an applicant for a Class C license or permit from a test(s) administered by a certified Class C third party tester as though the test(s) was administered by DMV, except that DMV shall not accept a passing test score if:

(a) The required wait time between a test failure and the giving of a subsequent test was not observed;

(b) The applicant fails to deliver the Certificate of Test Completion within 15 calendar days from the date of the test;

(c) The envelope in which the Certificate of Test Completion is placed by the Third Party Examiner is opened prior to its delivery to DMV;

(d) The Certificate of Test Completion includes any alterations;

(e) The test was not conducted in accordance with the standards established in OAR 735-061-0170 and 735-061-0180;

(f) The applicant was not tested by a Class C third party examiner who is certified by DMV; or

(g) The applicant is not eligible for driving privileges.

(3) With the consent of the person tested, DMV may conduct a re-test of an individual given a knowledge, safe driving practices or standardized behind the wheel drive test by a Class C third party examiner. The re-test may be done at DMV.

(4) Class C third party testers and Class C third party examiners shall meet all qualifications and requirements as set forth in Division 61 rules.

(5) A Class C third party tester may charge a fee for administering and conducting Class C tests on behalf of DMV.

(6) Prior to administering a Class C test, the Class C third party tester shall provide a written disclaimer to each client that includes:

(a) Notice that the fee charged by the Class C third party tester is a fee for their services, and does not include any payment of a DMV license or permit fee;

(b) Payment of a fee does not guarantee a passing test score;

(c) Any training, testing or payment of fees does not guarantee issuance of a license or permit by DMV; and

(d) If the client is not eligible for a driver license or permit in Oregon for any reason, passing test scores are invalid and will not be accepted by DMV.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0040

Qualifications for Class C Third Party Testers

(1) To qualify as a Class C third party tester, an applicant must meet the following:

(a) Have a business office, agency, facility or a campus in Oregon in which driver testing records shall be securely maintained and available for inspections and audits by DMV;

(b) Have a DMV approved testing program to administer written knowledge, safe driving practices and standardized behind the wheel drive tests to applicants for Class C licenses and permits which complies with all the requirements set forth in OAR 735-061-0170 and 735-061-0180;

(c) Have one or more DMV approved Class C drive test routes that meet the specifications outlined in the Oregon Class C Examiner's Manual;

(d) Have an owner who is certified as a Class C third party examiner or has applied for certification as a Class C third party examiner or employ a certified Class C third party examiner. For purposes of this rule, owner does not include a shareholder of a corporation;

(e) Pass an inspection by DMV as outlined in OAR 735-061-0160(1);

(f) Be willing to sign and abide by all terms of a written Class C Third Party Tester Agreement with DMV as described in OAR 735-061-0090; and

(g) Be in compliance with all state and local business laws or regulations.

(2) To qualify as a Class C third party tester an applicant must not:

(a) Have a Third Party Tester Certificate or equivalent authorization, issued by any jurisdiction, that is currently suspended;

(b) Have had a Third Party Tester Certificate or equivalent authorization, issued by any jurisdiction, that was suspended, revoked or involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for a Class C Third Party Tester Certificate is submitted to DMV;

(c) Have a driver training school certificate or driver training instructor certificate or equivalent authority, issued by any jurisdiction, that is currently suspended;

(d) Have had a driver training school or driver training instructor certificate or equivalent authorization, issued by any jurisdiction, that was suspended, revoked or involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for a Class C Third Party Tester Certificate is submitted to DMV; or

(e) Have a partner, owner or shareholder who owns 20% or more of the business or an officer, director, agent or manager who:

(A) Has a Third Party Tester Certificate, Third Party Examiner Certificate, Driver Training School Certificate, Driver Training Instructor Certificate or equivalent authorization, issued by any jurisdiction, that is currently suspended or revoked;

(B) Has had a Third Party Tester Certificate, Third Party Examiner Certificate, Driver Training School Certificate, Driver Training Instructor Certificate or equivalent authorization, issued by any jurisdiction, that has been suspended, revoked or involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for a Class C Third Party Tester Certificate is submitted to DMV; or

(C) Has been arrested or convicted of a crime involving moral turpitude, including but not limited to, homicide, assault, kidnapping, a sexual offense, robbery, child pornography, fraud, forgery, perjury and theft or of a crime punishable as a felony involving the use of a motor vehicle, or a crime punishable as a felony involving possession, manufacture or distribution of a controlled substance.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0050

Application for a Class C Third Party Tester Certificate

(1) To apply for a Class C Third Party Tester Certificate, the applicant 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 Tester Certificate, DMV Form 735-7173;

(b) The original Class C Third Party Tester Agreement, signed by the applicant or the applicant's authorized representative;

(c) A proposed drive test route(s) which meets the criteria set forth in OAR 735-061-0180;

(d) The name(s) of the individual(s) who will apply for certification as a Class C third party examiner;

(e) Proof of required insurance as set forth by the terms of the Class C Third Party Tester Agreement; and

(f) The name and address of the Class C third party tester's designated or registered agent for service of notices, documents or process.

(2) Class C Third Party Tester Certificates are non-transferable.

(3) A false statement or intentional misrepresentation of facts in any Class C third party tester application shall be grounds for not approving the application or for terminating an agreement or certification.

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

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0060

Responsibilities of a Class C Third Party Tester

(1) A Class C third party tester shall:

(a) Allow representatives of DMV to conduct random inspections without prior notice;

(b) Notify DMV in writing within 10 working days of any change of: address; location of training or testing; name and address

of the designated or registered agent; an owner, partner or shareholder owning 20% or more of the business or officer, director, agent or manager; or employment status of a Class C third party examiner, including an individual who is hired or who has discontinued employment;

(c) Notify DMV in writing within 10 working days if the Class C third party tester goes out of business; the Class C third party tester no longer meets the qualification requirements set forth in OAR 735-061-0040; or a third party examiner no longer meets the qualification requirements set forth in OAR 735-061-0100;

(d) Ensure that all Class C third party examiners employed by the Class C third party tester remain in compliance with all administrative rules and regulations governing third party examiners;

(e) Maintain all required records, including employment records for all Class C third party examiners employed by the Class C third party tester, which shall include their current residence address, telephone number, proof of completion of any required Class C third party examiner training, a copy of their Class C Examiner Certificate, Oregon driver license number and a copy of the results of a Criminal History Check (CCH) which is no more than two years old;

(f) Notify DMV within 24 hours of any notice of a civil legal action, a criminal investigation or arrest, or a complaint concerning administration of a test involving the third party tester, any third party examiner employed by the tester or any owner certified as a third party examiner;

(g) If requested, shall respond in writing within 10 working days to any complaint received by DMV;

(h) Correct any deficiency identified by an inspector during an on-site inspection, within 30 calendar days of the date notice of the deficiency is issued by DMV;

(i) Comply with all statutes, administrative rules and regulations related to the Class C Third Party Testing Program and with all terms of the Class C Third Party Testing Agreement;

(j) Maintain all qualification requirements set forth in OAR 735-061-0040;

(k) Maintain records of all Class C tests administered, regardless of whether the applicant passed or failed the test. Each record shall include:

(A) The complete name and date of birth of the applicant tested;

(B) The driver license number and the state that issued the license or permit of the applicant, if applicable;

(C) The date the applicant took each test;

(D) The score sheet (or a copy of the score sheet) showing the results of each knowledge, safe driving practices and/or standardized behind the wheel drive test taken by the applicant;

(E) A copy of the Certificate of Test Completion issued to the applicant; and

(F) The name and certificate number of the third party examiner conducting the tests.

(l) Maintain a monthly log of all Class C tests conducted. The original log shall be kept at the business office or facility of the third party tester;

(m) Submit a copy of the monthly log to DMV by the fifth working day of the following month;

(n) Daily submit the names, dates of birth and test scores of all applicants who failed a test that day;

(o) Maintain all required records for at least two years from the date a test was administered as follows:

(A) The records shall be kept at the Class C third party tester's place of business;

(B) If the Class C third party tester goes out of business, the records shall be maintained by the designated or registered agent of the third party tester and shall be kept at a location that is convenient to and accessible by an inspector; and

(C) DMV shall immediately be notified in writing if the location of records required to be maintained is changed by the Class C third party tester or the designated or registered agent.

(p) Not disclose an applicant's personal information, as defined in ORS 802.175, or test scores unless authorized by DMV; and

(q) At the business premises where tests are administered, prominently display in an area accessible to the general public:

(A) The Class C Third Party Tester Certificate;

(B) The certificates of all Class C third party examiners who work at that location; and

(C) Notice of the fee charged for administering each test and a notification that the applicant may take the test at a DMV office free of charge.

(2) A Class C third party tester shall not:

(a) Falsify any records;

(b) Permit anyone except a certified Class C third party examiner to conduct Class C knowledge, safe-driving practices or standardized behind the wheel licensing tests;

(c) Distribute, or allow any employee to distribute, any form of DMV testing materials or answers for any fraudulent purposes;

(d) Test drivers whom they have trained to meet the standards necessary to pass the Class C tests;

(e) Disclose an applicant's personal information as defined in ORS 802.175, or an applicant's test scores unless authorized by DMV;

(f) Transfer the Class C Third Party Tester Certificate to any other entity or person; or

(g) Issue, or allow any employee to issue, passing test scores to any applicant who:

(A) Was not tested in accordance with OAR 735-061-0170 and 735-061-0180; or

(B) Failed the test.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0070

Suspension or Revocation of Class C Third Party Tester Certificates

(1) DMV may suspend the Class C Third Party Tester Certificate of a third party tester who fails to comply with any of the responsibilities as set forth in OAR 735-061-0060(1)(b) through (q).

(2) The period of suspension is as follows:

(a) First offense: DMV shall suspend the Class C Third Party Tester Certificate for one year; and

(b) Second offense or subsequent offense within a five-year period: DMV shall suspend the Class C Third Party Tester Certificate for three years.

(3) DMV shall revoke the Class C Third Party Tester Certificate if the third party tester:

(a) Refuses to allow an inspector to conduct a periodic inspection as required in OAR 735-061-0060(1)(a); or

(b) Violates any of the prohibitions set forth in OAR 735-061-0060(2).

(4) The period of revocation is as follows:

(a) First offense: DMV shall revoke the Class C Third Party Tester Certificate for one year; and

(b) Second offense or subsequent offense within a five-year period: DMV shall revoke the Class C Third Party Tester Certificate for five years.

(5) DMV may revoke the Class C Third Party Tester Certificate if the Class C third party tester becomes disqualified as set forth in OAR 735-061-0040(2)(a) or (c) and the certificate or its equivalent was issued by a jurisdiction other than Oregon. The period of revocation shall be five years.

(6) Whenever DMV takes action under this rule to suspend or revoke a Class C Third Party Tester Certificate, DMV shall:

(a) Notify the third party tester in writing that the DMV intends to suspend or revoke the Certificate for a violation as set forth in this rule and that the suspension or revocation will begin 30 days from the date of the notice, unless a hearing is requested. The notice shall be served by personal service or by certified mail to the address of the designated or registered agent of the third party tester; and

(b) If requested, afford the third party tester a contested case hearing before a representative of DMV conducted in accordance with ORS 183.310 to 183.550.

(7) To request a hearing, the third party tester must submit a written request for hearing to DMV, Hearings Case Management Unit, 1905 Lana Ave. NE, Salem, OR 97314. The request must be

received by DMV within 20 days of the date of the notice of suspension or revocation. The suspension or revocation will not take effect pending the outcome of the hearing.

(8) DMV shall withdraw the notice of suspension issued pursuant to section (1) of this rule if the third party tester is able to correct the violation and provide proof of such correction to DMV within 30 days of the date of the notice.

(9) If a Class C Third Party Tester Certificate has been suspended or revoked, the third party tester may re-apply for certification after completion of the suspension or revocation period and must meet all requirements and qualifications required by administrative rule or statute at the time of the re-application.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0080

Renewal and Replacement of Class C Third Party Tester Certificates

(1) A Class C Third Party Tester Certificate shall be valid for two years, unless suspended or revoked. An original certificate shall expire two years from the month of issue, on the last day of the month; for example, a certificate issued on April 2, 1999, will expire April 30, 2001.

(2) To renew a Class C Third Party Tester Certificate, the third party tester must:

(a) Meet all the qualification requirements necessary to obtain the original certificate; and

(b) Submit an application for renewal to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314, no later than 30 days prior to expiration of the current Class C Third Party Tester Certificate.

(3) DMV shall notify Class C third party testers of the pending expiration of their Third Party Tester Certificate approximately 60 days prior to the expiration of the certificate.

(4) DMV shall issue a replacement Class C Third Party Tester Certificate:

(a) To replace a lost, stolen, mutilated or destroyed Class C Third Party Tester Certificate; and

(b) If the Class C third party tester submits a written request indicating the reason for the replacement to DMV, Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0090

Class C Third Party Tester Agreement

(1) A Class C third party tester and DMV shall enter into a Third Party Tester Agreement declaring the rights and responsibilities of DMV and the third party tester.

(2) A copy of the Third Party Tester Agreement shall be furnished, upon request, by DMV.

(3) The terms of the agreement shall begin upon execution of the agreement by all parties and shall expire at the same time the Class C Third Party Tester Certificate expires.

(4) Upon expiration of the original agreement, the Class C third party tester may enter into a new agreement with DMV by meeting all qualifications and requirements outlined in the agreement:

(a) The Class C third party tester shall submit a signed agreement to DMV;

(b) The agreement may be submitted no more than 60 days before the expiration date of the effective agreement; and

(c) The agreement shall begin upon execution of the agreement by all parties.

(5) The agreement may be terminated by DMV if:

(a) The Class C third party tester made a false statement or intentional misrepresentation of facts in an application for a Class C Third Party Tester Certificate; or

(b) The Class C Third Party Tester Certificate is suspended, revoked, canceled or voluntarily withdrawn.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0100

Qualifications for Class C Third Party Examiners

(1) To qualify as a Class C third party examiner, an applicant must meet the following:

(a) Be an employee of a Class C third party tester or an employee of an applicant for a Class C Third Party Tester Certificate; or be an owner of a certified Class C third party tester or the owner of a third party tester which is applying for certification. For purposes of this section, owner does not include a shareholder of a corporation;

(b) Be at least 21 years of age and have and maintain a valid Oregon Class C driver license. A hardship or probationary permit is not considered a valid license; and

(c) Have successfully completed the Class C third party examiner training course as set forth in OAR 735-061-0140.

(2) To qualify as a Class C third party examiner an applicant must not:

(a) Have been convicted of any major traffic offense as defined in ORS 153.500(5) within the five years immediately preceding the date of application for a third party examiner certificate;

(b) Have been enrolled or participated in a DUII diversion program in this state or in a similar program in any other state within the three years immediately preceding the date of application for a third party examiner certificate;

(c) Have been involved in any step of DMV's driver improvement program within the one year immediately preceding the date of application for a third party examiner certificate;

(d) Have had their driving privileges suspended, revoked, canceled or disqualified within two years immediately preceding the date of application for a third party examiner certificate;

(e) Have been arrested or convicted of a crime involving moral turpitude, including but not limited to, homicide, assault, kidnapping, a sexual offense, robbery, child pornography, fraud, forgery, perjury and theft or of a crime punishable as a felony involving the use of a motor vehicle, or a crime punishable as a felony involving possession, manufacture or distribution of a controlled substance;

(f) Have a Class C Third Party Tester Certificate or Class C Third Party Examiner Certificate or equivalent authorization, issued by any jurisdiction, that is currently suspended;

(g) Have had a Class C Third Party Tester Certificate or Class C Third Party Examiner Certificate or equivalent authorization issued by an jurisdiction, that was suspended, revoked, or involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for Class C Third Party Examiner Certificate is submitted to DMV;

(h) Have a driver training school certificate or driver training instructor certificate or equivalent authorization, issued by any jurisdiction, that is currently suspended;

(i) Have had a driver training school or driver training instructor certificate or equivalent documentation, issued by any jurisdiction, that was suspended, revoked, involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for a Class C Third Party Examiner Certificate is submitted to DMV;

(j) Be a partner, owner or shareholder who owns 20% or more of the business or an officer, director, agent or manager who:

(A) Has a Third Party Tester Certificate, Third Party Examiner Certificate, Driver Training School Certificate, Driver Training Instructor Certificate or equivalent authorization, issued by any jurisdiction, that is currently suspended or revoked;

(B) Has had a Third Party Tester Certificate, Third Party Examiner Certificate, Driver Training School Certificate, Driver Training Instructor Certificate or equivalent authorization, issued by any jurisdiction, that has been suspended, revoked or involuntarily canceled or otherwise involuntarily terminated within the five years immediately preceding the date an application for a Class C Third Party Tester Certificate is submitted to DMV; or

(C) Has been arrested or convicted of a crime involving moral turpitude, including but not limited to, homicide, assault, kidnapping, a sexual offense, robbery, child pornography, fraud, forgery, perjury

and theft or of a crime punishable as a felony involving the use of a motor vehicle, or a crime punishable as a felony involving possession, manufacture or distribution of a controlled substance; or

(k) Have more than one valid driver license issued by more than one jurisdiction at the same time.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0110

Application for a Class C Third Party Examiner Certificate

(1) To apply for a Class C Third Party Examiner Certificate the applicant must:

(a) Submit a completed application for a Class C Third Party Examiner Certificate, DMV Form 735-7173, to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314;

(b) Meet all the qualification requirements set forth in OAR 735-061-0100; and

(c) Successfully complete the Class C third party examiner training course.

(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 will be grounds for not approving the application or for terminating an agreement or certification.

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

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0120

Responsibilities of a Class C Third Party Examiner

(1) The Class C third party examiner shall:

(a) Remain in compliance with the qualifications set forth in OAR 735-061-0100;

(b) Conduct the knowledge, safe driving practices and drive tests for applicants as set forth in OAR 735-061-0170 and 735-061-0180;

(c) Maintain a Class C third party examiner's monthly log of Class C tests conducted. The original log shall be kept at the business office, agency or facility of the third party tester and a copy shall be submitted to DMV by the fifth day of the following month;

(d) Successfully complete any additional training when required by DMV;

(e) Comply with all statutes, administrative rules and regulations related to the Class C third party testing program;

(f) Notify the third party tester within 24 hours upon receipt of notice of:

(A) Any suspension, revocation, cancellation or disqualification of 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 administration of a test.

(g) Notify the third party tester within 24 hours of any criminal investigation, arrest or conviction of the third party examiner involving any crime described in OAR 735-061-0100(2)(j) or any major traffic offense described in OAR 735-061-0100(2)(a), or any enrollment in a DUII diversion program;

(h) Properly complete all forms and application required by DMV; and

(i) Abide by the Code of Ethics and Rules of Conduct set forth in 735-061-0190.

(2) The Class C third party examiner shall not:

(a) Test an applicant to whom they have provided training to meet the standards necessary to pass a Class C knowledge, safe driving practices or standardized behind the wheel drive test;

(b) Falsify any records;

(c) Sign or issue a Certificate of Test Completion showing passing test scores to any individual:

(A) To whom the Class C third party examiner did not administer a test in accordance with OAR 735-061-0170 and 735-061-0180; or

(B) Who did not successfully pass a test conducted by the third party examiner.

(d) Conduct any Class C tests unless certified by DMV;

(e) Transfer his or her Class C Third Party Examiner Certificate to any other person; or

(f) Disclose an applicant's personal information as defined in ORS 802.175, or an applicant's test scores, unless authorized by DMV.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0130

Suspension or Revocation of Class C Third Party Examiner's Certificate

(1) DMV may suspend the Class C Third Party Examiner Certificate of a third party examiner who fails to comply with any of the responsibilities set forth in OAR 735-061-0120(1)(a) through (h).

(2) The period of suspension is as follows:

(a) First offense: DMV shall suspend the Class C Third Party Examiner Certificate for one year; and

(b) Second offense or subsequent offense within a five-year period: DMV shall suspend the Class C Third Party Examiner Certificate for three years.

(3) DMV shall revoke the Class C Third Party Examiner Certificate if the third party examiner violates any of the prohibitions set forth in OAR 735-061-0120(2). The period of revocation is as follows:

(a) First offense: DMV shall revoke the Class C Third Party Examiner Certificate for one year; and

(b) Second offense or subsequent offense within a five-year period: DMV shall revoke the Class C Third Party Examiner Certificate for five years.

(4) DMV may revoke the Class C Third Party Examiner Certificate if the Class C third party examiner becomes disqualified as set forth in OAR 735-061-0100(2)(e), (g) and (i) and the certificate or its equivalent was issued by a jurisdiction other than Oregon. The period of revocation shall be for five years.

(5) DMV shall revoke a Class C Third Party Examiner Certificate if the third party examiner is convicted of a major traffic offense as described in OAR 735-061-0100(2)(a). The period of revocation shall be for five years from the date of the conviction.

(6) DMV shall revoke a Class C Third Party Examiner Certificate if the third party examiner is enrolled in a DUII diversion program as described in OAR 735-061-0100(2)(b). The period of revocation shall be for three years from the date of enrollment.

(7) DMV shall revoke a Class C Third Party Examiner Certificate if the third party examiner is required to participate in a DMV Driver Improvement program. The period of revocation shall be for one year.

(8) DMV shall revoke a Class C Third Party Examiner Certificate if the examiner is under the influence of any intoxicating beverages, drugs or controlled substances while conducting a written knowledge or safe driving practices test. For the purposes of this section, "under the influence" means consumption of a drug or controlled substance that impairs physical or mental functions or of an intoxicating beverage within six hours of or while conducting a test.

(9) Whenever DMV takes action under this rule to suspend or revoke a Class C Third Party Examiner Certificate, DMV shall:

(a) Notify the third party examiner in writing that DMV intends to suspend or revoke the Certificate for a violation as set forth in this rule and that the suspension or revocation will begin 30 days from the date of the notice, unless a hearing is requested. The notice shall be served by personal service or by certified mail to the business address shown on the Class C Third Party Examiner Certificate; and

(b) If requested, afford the third party examiner a contested case hearing before a representative of DMV conducted in accordance with ORS 183.310 to 183.550.

(10) To request a hearing, the Class C third party examiner must submit a written request for hearing to DMV, Hearings Case Management Unit, 1905 Lana Avenue NE, Salem, OR 97314. The request must be received by DMV within 20 days of the date of the notice of suspension or revocation. The suspension or revocation will not take effect pending the outcome of the hearing.

(11) DMV shall withdraw the notice of suspension issued pursuant to section (1) of this rule if the third party examiner is able to correct the violation and provide proof of such correction to DMV within 30 days of the date of the notice.

(12) If a Class C Third Party Examiner Certificate has been suspended or revoked, the third party examiner may re-apply for certificate after completion of the suspension or revocation period and must meet all requirements and qualifications required by administrative rule or statute at the time of the re-application.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0140

Class C Third Party Examiner Training

(1) An applicant for a Class C Third Party Examiner Certificate must successfully complete a Class C third party examiner training course as described in this rule.

(2) The Class C third party examiner training course shall be approved by DMV and shall be identical to the training received by drive examiners employed by DMV.

(3) The Class C third party examiner training course shall consist of instruction in all of the following:

- (a) How to conduct the knowledge, safe driving practices and standardized behind the wheel drive tests;
- (b) How to score the knowledge, safe driving practices and standardized behind the wheel drive tests;
- (c) Minimum passing scores;
- (d) How to select a drive test route;
- (e) The skills to be tested;
- (f) Where and how the skills will be tested;
- (g) How the performance of the skills will be scored;
- (h) Causes for automatic failure of skills tests;
- (i) A review of the responsibilities of the Class C third party examiner including, but not limited to, maintaining records and proper completion of forms; and
- (j) Information contained in the Oregon Class C Examiner's Manual and the Oregon Motor Vehicle Operator's Manual available from DMV.

(4) Proof of completion of the Class C third party examiner training shall not be issued until the individual has:

- (a) Attended all required training classes;
- (b) Successfully completed and passed all tests or other requirements;
- (c) Demonstrated the knowledge and skills to conduct Class C tests on behalf of DMV; and
- (d) Paid all required training fees.

(5) An individual who completes the knowledge and safe driving practices test training, but not the standardized behind the wheel drive test training, may be issued a restricted Class C Third Party Examiner Certificate, if the individual fulfills all other requirements for obtaining a Certificate.

(6) Except as provided in section (5) of this rule, a Class C third party examiner who is issued a restricted Certificate is subject to all rules applicable to a Class C third party examiner.

(7) A Class C third party examiner who is issued a restricted Class C Third Party Examiner Certificate may not conduct a standardized behind the wheel drive test. Violation of this section will result in immediate cancellation of the restricted Class C Third Party Examiner Certificate and the Class C third party examiner will be ineligible to re-apply for a Class C Third Party Examiner Certificate for a period of one year.

(8) If the Class C third party examiner training course or any required ongoing training is conducted by DMV, DMV may charge a fee calculated to reimburse the agency for the costs associated with providing such training. DMV may enter an agreement to have a con-

tractor or public agency provide the training. Fees charged by the contractor or public agency shall be established as agreed between the contractor or public agency and DMV.

(9) The Class C third party examiner or tester shall be responsible for any costs associated with training.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0150

Renewal, Replacement and Issuance of an Additional Class C Third Party Examiner's Certificate

(1) A Class C Third Party Examiner Certificate shall be valid for two years, unless suspended or revoked. The original certificate shall expire two years from the month of issue, on the last day of the month; for example, a certificate issued August 1, 1999, will expire August 31, 2001.

(2) To renew a Class C Third Party Examiner Certificate, the third party examiner must:

(a) Meet all the qualification requirements necessary to obtain an original certificate; and

(b) Submit an application with supporting documents as provided in OAR 735-061-0110, to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314, no later than 30 days prior to expiration of the current Class C Third Party Examiner Certificate.

(3) DMV shall issue a replacement Class C Third Party Examiner Certificate if:

(a) A Class C third party examiner certifies in writing that the original certificate has been lost, stolen, mutilated or destroyed; or

(b) The Class C third party examiner changes employers; and

(A) The new Class C third party tester has been issued a Class C Third Party Tester Certificate; and

(B) The examiner continues to meet the qualifications set forth in OAR 735-061-0100.

(4) To apply for a replacement Class C Third Party Examiner Certificate, the third party examiner shall submit an application for replacement certificate to DMV, Class C Third Party Testing Program, 1905 Lana Avenue NE, Salem, Oregon 97314.

(5) DMV may issue an additional Class C Third Party Examiner Certificate if:

(a) A Class C third party examiner is employed by more than one Class C third party tester; and

(b) The Class C third party examiner meets the qualifications set forth in OAR 735-061-0100.

(6) To apply for an additional Class C Third Party Examiner Certificate, the individual must submit an application as set forth in OAR 735-061-0110(1).

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0160

Inspections by DMV

(1) DMV shall inspect all Class C third party tester applicants before issuing a Class C Third Party Tester Certificate. The inspection shall include, but may not be limited to:

- (a) Office and testing facilities;
- (b) Testing procedures;
- (c) Testing equipment, including vehicles used for standardized behind the wheel drive tests;
- (d) Test security; and
- (e) Drive test route(s).

(2) DMV shall periodically reinspect all Class C third party testers to determine compliance with laws, administrative rules and regulations pertaining to the Class C third party tester and examiner program.

(3) The Class C third party tester must consent to random, periodic examinations or inspections without prior notice by authorized representatives of DMV.

(4) In addition to all areas inspected in section (1) of this rule, periodic inspections shall review:

(a) Class C third party tester records, including records of each applicant for whom a drive test was conducted, whether the person passed or failed;

(b) Maintenance of all qualifications as listed in OAR 735-061-0040;

(c) Examiners' status and performance;

(d) Compliance with all terms of the Class C third party tester agreement; and

(e) Any other areas DMV may deem necessary.

(5) The inspector may accompany a Class C third party examiner on a standardized behind the wheel drive test.

(6) The inspector may observe a Class C third party examiner conduct a knowledge or safe driving practices test and with the consent of the person tested, conduct a re-test while at the Class C third party tester facility.

(7) A DMV inspector may pose as a customer of a Class C third party tester without identifying him or herself as an employee of DMV, in order to observe the manner in which testing is conducted.

(8) To pass an inspection, the Class C third party tester must meet requirements in all areas set forth in the rule.

(9) Refusal to permit DMV to conduct a periodic inspection shall result in revocation of the Class C Third Party Tester Certificate, as specified in OAR 735-061-0070.

(10) The inspector who conducts the inspection shall prepare a written report of the inspection.

(11) The inspector's original report shall be given to the third party tester and DMV shall retain a copy.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0170

The Knowledge Test

(1) The Class C knowledge or safe driving practices test conducted by a Class C third party examiner shall be the same test as that administered by DMV. The Class C third party examiner must use the test questions and scoring system approved or provided by DMV.

(2) A knowledge or safe driving practices test shall be administered in the State of Oregon by a Class C examiner certified by this state.

(3) Prior to administering a test, the Class C third party tester shall have the applicant:

(a) Complete an application for Class C driving privileges on a DMV approved form; and

(b) Provide proof of age and identification as described in OAR 735-062-0020 and documentary proof of residence address as described in OAR 735-062-0030. The applicant shall be required to present the same proof to DMV before a Class C license or permit shall be issued.

(c) This section applies only when the Class C third party tester is administering the first test being given to the applicant, and does not apply to subsequent tests given the applicant. The original application shall be placed in the applicant's record maintained by the Class C third party tester.

(4) The knowledge test shall be conducted according to the standards adopted in OAR 735-062-0040 and shall be specific to a Class C license.

(5) The waiting times between knowledge tests shall be the same as those set forth in OAR 735-062-0040. DMV shall refuse to accept test scores and shall not issue an instructional permit or a driver license if wait times have not been observed.

(6) Paper tests shall be printed by DMV and distributed to Class C third party testers as needed. The tests provided shall:

(a) Be produced in the same way they are produced for DMV offices that do not have an Automated Testing Device;

(b) Consist of questions chosen at random from the questions which are included in the Class C test on the Automated Testing Device;

(c) Be printed directly from the Automated Testing Device; and

(d) Include an answer key printed by the Automated Testing Device.

(7) The third party tester may use an Automated Testing Device. The following apply to Automated Testing Devices:

(a) The Automated Testing Devices used by a third party tester shall be the same as the Automated Testing Devices used by DMV;

(b) The tests conducted on the Automated Testing Device shall be of the same degree of difficulty and covering the same material as those conducted by DMV; and

(c) The third party tester shall be responsible for the installation of the machine, the installation of electronic programs and any costs associated with the Automated Testing Device.

(8) The Class C third party tester shall ensure the security of the test questions, scoring sheets and answer keys by:

(a) Providing a secure storage area for all testing materials that is kept locked at all times;

(b) Limiting access to the storage area to authorized employees; and

(c) Shredding, or otherwise destroying, all tests, answer keys, score sheets, etc., after use or when the retention period is ended.

(9) If an applicant has received a passing score, the third party examiner shall do the following:

(a) Complete the Certificate of Test Completion;

(b) Place the original copy of the Certificate of Test Completion and the original application in an envelope and seal the envelope;

(c) Instruct the applicant to take the envelope unopened to a DMV office within 15 calendar days of the date it is issued; and

(d) Advise the applicant that DMV will not accept the Certificate of Test Completion if it is altered, delivered to DMV more than 15 calendar days from the date of the test or if the envelope is opened prior to its delivery to DMV.

(10) Each day the Class C third party tester shall report the name, date of birth and test scores of any applicant who failed a knowledge or safe driving practices test by fax or telephone to a location designated by DMV.

(11) DMV shall post electronically all test scores received each day to the applicants' DMV records.

(12) The Class C third party tester shall retain a copy of the original application for Class C driving privileges, score sheets and a copy of the Certificate of Test Completion in the applicant's record maintained by the Class C third party tester.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0180

The Drive Test

(1) The standardized behind the wheel drive test allows a Class C third party examiner to:

(a) Evaluate the applicant's ability to operate a vehicle in a safe manner under actual driving conditions;

(b) Determine if the applicant demonstrates safe and proper driving methods and knowledge of traffic laws; and

(c) Evaluate the ability of the applicant to perform the maneuvers listed in the Oregon Department of Transportation Class C Examiner's Manual.

(2) The standardized behind the wheel drive test shall be conducted by a Class C third party examiner certified by the State of Oregon and shall be the same test as that administered by DMV.

(3) The Class C third party examiner shall:

(a) Conduct the test within the State of Oregon;

(b) Conduct the test only during daylight hours;

(c) Use a drive test route that has been approved by DMV and meets the specifications outlined in the Oregon Class C Examiner's Manual;

(d) Conduct an on-road test in accordance with the standards adopted in OAR 735-062-0070;

(e) Use the standardized behind the wheel drive test score sheet provided by DMV; and

(f) Not conduct the test if 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 administering a test, the Class C third party tester shall have the applicant:

(a) Complete an application for Class C driving privileges on a DMV approved form; and

(b) Provide proof of age and identification as described in OAR 735-062-0020 and documentary proof of residence address as described in OAR 735-062-0030. The applicant shall be required to present the same proof to DMV before a Class C license or permit shall be issued.

(5) If an applicant has received a passing score, the Class C third party examiner shall:

(a) Complete the Certificate of Test Completion;

(b) Place the original copy of the Certificate of Test Completion and the original Application for Driving Privileges in an envelope and then seal the envelope;

(c) Instruct the applicant to take the envelope unopened to a DMV office within 15 calendar days of the date it is issued; and

(d) Advise the applicant that DMV will not accept the Certificate of Test Completion if it is altered, delivered to DMV more than 15 calendar days from the date of the test or if the envelope is opened prior to delivery to DMV.

(6) Each day, the Class C third party tester shall report the name, date of birth and test scores of any applicant who failed a drive test, by fax or telephone to a location designated by DMV.

(7) DMV shall electronically post all test scores received each day to the applicants' DMV records.

(8) The Class C third party tester shall retain a copy of the original application for Class C driving privileges, score sheets and a copy of the Certificate of Test Completion in the applicant's record maintained by the Class C third party tester.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0190

Code of Ethics and Rules of Conduct

A Class C third party tester or third party examiner shall hold to the highest standards of professional conduct and shall 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) Complete an application for a license or permit;

(b) Receive a passing score on a knowledge, safe driving practices or standardized behind the wheel drive test when the applicant either failed the test or did not take the test; or

(c) Obtain driving privileges for which the applicant is ineligible or has not qualified.

(2) Discrimination against any applicant for Class C driving privileges on the basis of race, religion, national origin, disability, age, sex 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 tester's or third party examiner's actions in scoring a test or in violating subsection (1)(a) of this rule;

(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 any unlawful controlled substance or intoxicating beverage or being under the influence of any intoxicating beverages, drugs or controlled substances while conducting a standardized behind the wheel drive test. 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 or consumption of an intoxicating beverage within six hours of or while conducting a test;

(7) Falsifying of any document or making of a misrepresentation in any document that relates to any testing activity; or

(8) Providing DMV testing materials, including but not limited to test questions, scoring sheets, answer keys or test equipment, to any person not authorized or certified to possess such testing materials, for personal gain or profit.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600

Stats. Implemented: ORS 802.600

Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

735-061-0200

Permanent Revocation of Certificate and Emergency Suspension Order

(1) DMV may permanently revoke a Class C Third Party Tester Certificate or a Class C Third Party Examiner Certificate for any violation of the provisions of the Code of Ethics and Rules of Conduct as set forth in OAR 735-061-0190. A Class C third party tester or Class C third party examiner whose Certificate is revoked pursuant to this section, is ineligible to re-apply for a Class C Third Party Tester Certificate or a Class C Third Party Examiner Certificate.

(2) DMV may permanently revoke the Class C Third Party Tester Certificate if the Class C third party tester made any false statement or intentional misrepresentation of facts in any application for a certificate.

(3) Whenever DMV takes action under this rule to permanently revoke a Class C Third Party Tester Certificate or Class C Third Party Examiner Certificate, DMV shall:

(a) Notify the Class C third party tester or Class C third party examiner in writing that their Class C Third Party Tester Certificate or Class C Third Party Examiner Certificate is permanently revoked for a violation as set forth in this rule and that the revocation will begin 30 days from the date of the notice, unless a hearing is requested. The notice shall be served by certified mail to the designated or registered agent of the Class C third party tester or to the business address of the Class C third party examiner shown on the Class C Third Party Examiner Certificate; and

(b) If requested, afford the Class C third party tester or Class C third party examiner a contested case hearing before a representative of DMV conducted in accordance with ORS 183.310 to 183.550.

(4) To request a hearing, the Class C third party tester or Class C third party examiner must submit a written request for hearing to DMV, Hearings Case Management Unit, 1905 Lana Avenue NE, Salem, Oregon 97314. The request must be received by DMV within 20 days of the date of the notice of permanent revocation. The permanent revocation will not take effect pending the outcome of the hearing.

(5) If it finds that there is a serious danger to the public health or safety, DMV may issue an emergency suspension order immediately suspending a Class C Third Party Tester Certificate or a Class C Third Party Examiner Certificate for any violation of the provisions of the Code of Ethics and Rules of Conduct as set forth in OAR 735-061-0190.

(6) Whenever DMV takes action under this rule to issue an emergency suspension order, it shall follow the procedures established under OAR 137-003-0010. The suspension will not be withdrawn pending hearing.

(7) Upon receipt of an Emergency Suspension Notice, the Class C Third Party Tester shall immediately:

(a) Return the Class C Third Party Tester Certificate and all DMV testing materials to DMV; and

(b) Stop administering knowledge testing, safe driving practices testing and/or standardized behind the wheel drive testing on behalf of DMV.

(8) Upon receipt of an Emergency Suspension Notice, the Class C third party examiner shall immediately:

(a) Return the Class C Third Party Examiner Certificate to DMV; and

(b) Stop conducting knowledge, safe driving practices and standardized behind the wheel drive tests.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 802.600
Stats. Implemented: ORS 802.600
Hist.: DMV 3-1999, f. & cert. ef. 9-3-99

DIVISION 62

DRIVER LICENSING

735-062-0000

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;

(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) Present to DMV documentary proof of the person's age and identity as described in OAR 735-062-0020;

(d) Present to DMV documentary proof of the person's residence address as described in OAR 735-062-0030;

(e) Present to DMV proof, as described in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(f) Surrender to DMV all driver permits and driver licenses in the person's possession that have been issued by:

(A) Another state;

(B) A Canadian province or territory; or

(C) A U.S. territory.

(g) In addition to all requirements in subsections (a) through (f) of this section, a person who holds a commercial driver license from another jurisdiction must satisfy all requirements set forth in ORS 807.045 and OAR 735-060-0015.

(2) 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) or the Commercial Driver License Information System (CDLIS) or both to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(3) 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) or both indicates the applicant's driving privilege is not fully valid.

(4) 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.

(5) 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.

(6) A driver license of an applicant with a February 29th birth date expires:

(a) On February 29th if the expiration year is a leap year; or

(b) On March 1st if the expiration year is not a leap year.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.040, ORS 807.050, ORS 807.060, ORS 807.120, ORS & ORS 809.310

Stats. Implemented: ORS 807.040 & ORS 807.066

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

735-062-0005

Social Security Number on Driving Records

(1) An applicant shall supply his or her social security number on the application for a commercial driver license as required by ORS 807.050. The social security number shall become a part of the applicant's driving record.

(2) Except as provided in section (3) of this rule, the social security number:

(a) Shall be a confidential part of the record;

(b) Shall not be provided on any printed driving record; and

(c) Shall not be displayed on the commercial driver license document.

(3) Commercial driving records containing the social security number may be accessed by criminal justice agencies through the Law Enforcement Data System.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 807.050

Stats. Implemented.: ORS 802.200 & ORS 807.050

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 11-1995, f. & cert. ef. 11-15-95

735-062-0010

Identification Cards

(1) Pursuant to ORS 807.400, the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue an identification card to any person who does not have a valid driver license.

(2) Before DMV will issue an identification card, the person applying for the 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) Present to DMV documentary proof of the person's age and identity as described in OAR 735-062-0020; and

(c) Present to DMV documentary proof of the person's residence address as described in OAR 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) Persons who are not residents of Oregon may be issued identification cards. 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 809.410(13)(a) and the person voluntarily surrenders the person's license or driver permit to DMV.

(8) An identification card of an applicant with a February 29th birth date expires:

(a) On February 29th if the expiration year is a leap year; or

(b) On March 1st if the expiration year is not a leap year.

(9) The issuance of an identification card does not constitute proof of Oregon residency or legal presence in the United States.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.040, ORS 807.050 & ORS 807.400.

Stats. Implemented: ORS 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

735-062-0020

Proof of Age and Identity Requirements

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require all applicants for an original driver permit, driver license or identification card to pre-

sent to DMV documentary proof of the applicant's age and identity prior to the issuance of such driver permit, driver license or identification card. This documentation must consist of at least one of the proofs of age and identity listed in section (4) of this rule and at least two of the proofs of identity listed in sections (4) or (5) of this rule.

(2) An applicant who presents a valid Oregon driver permit, driver license, or identification card will not be required to submit the documentation described in sections (4) and (5) of this rule when applying for another type of Oregon driver license. For example, an applicant who has a valid regular Class C driver license and is applying for a commercial driver license will not be required to submit the additional documentation described in sections (4) and (5) of this rule. An applicant who does not present a valid Oregon driver permit, driver license or identification card must satisfy the proof of identity requirements described in sections (4) and (5) of this rule.

(3) DMV will require all applicants for a renewal or duplicate driver permit, driver license or identification card to present to DMV documentary proof of their identity prior to the issuance of such driver permit, driver license or identification card. This documentation must consist of at least two of the proofs of identity listed in sections (4) or (5) of this rule.

(4) Proofs of age and identity include, but are not limited to:

(a) Original or certified copy of birth certificate (hospital birth certificates, hospital cards, birth registrations, and baptismal certificates are not accepted);

(b) Military or Armed Forces ID card;

(c) Military discharge papers;

(d) Selective service registration card;

(e) Passport;

(f) Alien registration card;

(g) Immigration or naturalization documents;

(h) An adoption decree or adoption certificate issued by a court record;

(i) A valid Oregon, out-of-state or Canadian driver license, instruction permit or identification card, unless marked as "Not Valid As ID";

(j) Clearance letter issued by another jurisdiction which includes the applicant's name, date of birth and out-of-jurisdiction driver license number;

(k) An Oregon Department of Corrections or County Corrections age and identity letter. This letter must include a photo of the applicant;

(l) An Oregon Department of Corrections or County Corrections Inmate Identification Card; or

(m) A Certificado de Matricula Consular (Mexican Consulate ID card).

(5) Proofs of identity include, but are not limited to:

(a) Student body identification card;

(b) Social security card;

(c) Marriage certificate or license;

(d) Vehicle title or registration;

(e) Company identification card;

(f) Liquor Control Service permit;

(g) Pistol or firearms permit;

(h) Personalized check/statement or savings account passbook;

(i) Driver license renewal reminder;

(j) Voter registration card;

(k) Property tax statement;

(L) W-2 tax forms;

(m) Medical or health card;

(n) Department of Corrections release letter;

(o) Parent/Guardian Affidavit;

(p) Parole papers;

(q) Certified copy of school transcript;

(r) Pilot's license;

(s) Digital photo on file with DMV's new licensing system; or

(t) Court papers or court orders, such as legal name changes issued by court of record.

(6) Notwithstanding sections (1) and (3) of this rule, DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of age or identity if DMV has reason to question an applicant's age or identity.

Stat. Auth.: ORS 814.616, ORS 807.050, ORS 807.150 & ORS 807.400

Stats. Implemented: ORS 807.040 - ORS 807.070, ORS 807.160, ORS 807.220 & ORS 807.230

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

735-062-0030

Proof of Residence Address

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall require all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents shall include any of the items listed in section (3) of this rule.

(2) DMV shall require all applicants who apply for a renewal or duplicate driver permit, driver license, or identification card at a DMV field office to present to DMV at least one document showing the applicant's current residence address if the applicant is changing his or her address. Acceptable documents shall include any of the items listed in section (3) of this rule.

(3) Proof of residence address shall include, but is not limited to:

(a) Any one of the proofs of identity listed in OAR 735-062-0020(4) or (5) that includes the person's current residence address;

(b) Mortgage documents;

(c) A statement from the parent or guardian of an applicant under 18 years of age attesting to the applicant's residence address. (The parent must reside at the same address as the applicant and present documentary proof of the parent's address);

(d) Rent receipt;

(e) Current telephone directory listing;

(f) Utility bill;

(g) Utility hook-up order;

(h) Payment booklet; or

(i) Canceled mail.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of Burnside Bridge." The applicant must provide a written statement from a social service agency verifying the descriptive residence address. In addition to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, ORS 807.050, ORS 807.150 & ORS 807.400

Stats. Implemented: ORS 807.110, ORS 807.160 & ORS 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

735-062-0035

Proof of School Attendance, Completion or Exemption

DMV will require an applicant under 18 years of age to provide proof of school attendance, completion or exemption before issuing a driving privilege when no privilege has been issued to the applicant previously or the applicant's driving privilege has been revoked or cancelled. DMV must also view proof of school attendance, completion or exemption before reinstating a driving privilege suspended for failure to attend school. The following are proof of attendance, completion or exemption from school:

(1) Proof of high school graduation includes:

(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.

(2) Proof of receipt of a General Educational Development (GED) certificate includes:

(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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) Proof that the applicant is exempt from school attendance under ORS 339.030(2) includes:

(a) The Statement of Enrollment form (DMV form #735-7185) signed by the designated 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 declared exempt from school attendance under ORS 339.030(2).

(b) A letter from the education service district or school district having jurisdiction over the area of the applicant's residence or State Board of Education, on letterhead and signed by a designated representative, stating that applicant has been granted an exemption from school attendance under ORS 339.030(2).

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

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

735-062-0040 Knowledge Test

(1) Applicants for an original driver permit or license must pass the knowledge test required under ORS 807.070(2).

(2) The knowledge test will be specific to the class of license sought. The test will examine the applicant's knowledge and understanding of traffic laws, safe driving practices and factors that cause accidents.

(3) The knowledge test is closed book. Applicants shall not use any study guides, manuals, notes or other items to assist them in obtaining answers to the test questions.

(4) The first knowledge test for a Class C driver license, permit or motorcycle 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 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.

(5) The first knowledge test for a Class A, B, or C commercial license or permit, a test for operation of a combination vehicle, a test for an endorsement other than motorcycle endorsement or test for use of vehicles with air brakes, 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 no sooner than seven days after the day of the third test;

(d) A fifth test may be conducted no sooner than seven days after the day of the fourth test;

(e) A sixth test may be conducted no sooner than seven days after the day of the fifth test;

(f) A seventh test may be conducted no sooner than 28 days after the sixth test; and

(g) An eighth test may be conducted no sooner than 28 days after the day of the seventh test.

(6) No more than five knowledge tests for a Class C driver license or motorcycle endorsement may be conducted within any 12-month period. Following a fifth knowledge test failure within a 12-month period, no further tests shall be conducted for one year.

(7) No more than eight knowledge tests as described in section (5) of this rule may be conducted within any 12-month period. Following an eighth knowledge test failure within a 12-month period, no further tests shall be conducted for one year.

(8) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) may waive the waiting period for a fourth or fifth Class C driver license, permit or motorcycle endorsement knowledge test required by this rule if:

(a) The person can demonstrate he or she failed the test due to medical reasons, such as dyslexia. A statement from the person's doctor stating a medical reason exists which would cause difficulty in passing the knowledge test will be 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; or

(c) The person was not given an oral test when an oral test was requested.

(9) The waiver of the waiting period in section (8) of this rule shall apply to only the fourth or fifth test. The waiver can be used only once in any 12-month period.

(10) DMV may waive the waiting period for a seventh or eighth Class A commercial license, Class B commercial license, Class C commercial license, permit, airbrake, combination vehicle or endorsement test other than motorcycle endorsement knowledge test required by this rule if:

(a) The person can demonstrate he or she failed the test due to medical reasons, such as dyslexia. A statement from the person's doctor stating a medical reason exists which would cause difficulty in passing the knowledge test will be 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; or

(c) The person was not given an oral test when an oral test was requested.

(11) The waiver of the waiting period in section (10) of this rule shall apply to only the seventh or eighth test. This waiver can be used only once in any 12-month period.

(12) The waiting period between knowledge test failures is determined by the number of times an applicant fails a certain class of license 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.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 802.540, ORS 807.070 & ORS 807

Stats. Implemented: ORS 807.070

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

735-062-0050

Eyesight Check Content and Standards

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall check the following

items when testing the eyesight of applicants for a driver permit or driver license:

- (a) Acuity; and
- (b) Field of vision.

(2) DMV shall issue a driver permit or driver license only to persons whose eyesight, with best possible correction, meets the following 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). Persons with usable vision in two 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. When the visual acuity of the person's best eye is worse than 20/40 and no worse than 20/70, DMV shall restrict the person to daylight driving only, unless, in the written opinion of a licensed vision specialist (ophthalmologist, oculist, or optometrist), the person's driving should not be restricted to daylight driving only; and

(b) Field of vision: The person must have a field of vision of 110 degrees.

(3) Except as indicated in section (4) of this rule, persons may meet the eyesight check standards with the use of corrective lenses. When a person must wear a corrective lens or corrective lenses to meet the eyesight check standards, DMV shall restrict the person to driving only when wearing corrective lenses.

(4) DMV shall issue a driver permit or driver license to persons who wear bioptic-telescopic lenses (glasses fitted with telescopic devices) only if the person can meet the eyesight standards set forth in section (2) of this rule when looking through the carrier lens (not the telescopic device).

Stat. Auth.: ORS 184.616 & ORS 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. ef. 8-15-96

735-062-0060

Periodic Check of Driver's Eyesight

(1) All drivers 50 years of age and older must have their eyesight checked by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) once every eight years.

(2) A driver's age is the age the person will be on the date of the expiration of the license to be renewed. A driver may be required to have a vision screening at 49 years of age if the driver's license will expire on his or her 50th birthday.

(3) The eyesight check must include those items listed in OAR 735-062-0050.

(4) If a person's eyesight meets the eyesight check 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.

(5) If a person's eyesight does not meet the eyesight check standard indicated in OAR 735-062-0050, DMV will issue the person a Temporary Driver's Permit which is valid for 60 days.

(6) A person who is issued a Temporary Driver's Permit under section (5) of this rule will have his or her driver license renewed only if:

(a) The person submits a vision examination form (Certificate of Examination by Competent Authority on Vision as Provided for in ORS 807.090, Form 24) signed by a licensed vision specialist (ophthalmologist, oculist, or optometrist) indicating that the person's eyesight is satisfactory for driving; and

(b) The person complies with all other driver license renewal requirements.

(7) Drivers who are temporarily out-of-state and unable to go to a DMV office to have their eyesight checked when required to do so will be instructed to get their eyesight checked in the state where they are located. A form (Vision Screening Results, Form 6743) will be provided to the person by DMV. The completed form must be submitted to DMV along with the driver license renewal application.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.070 & ORS 807.150

Stats. Implemented: ORS 807.150

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

735-062-0070

Drive Test

(1) The actual demonstration of an applicant's ability to drive a motor vehicle (the drive test) required under ORS 807.070(3) shall be conducted in a vehicle or combination of vehicles that can be driven only with the license class for which the application is made. For example, a person applying for a Class C driver license shall be tested in a vehicle that can be driven only by a person with a Class C driver license; a person applying for a Class A commercial driver license shall be tested in a vehicle that can be driven only by a person with a Class A commercial driver license. All persons must qualify for a Class C driver license before applying for a Class A, B, or C commercial driver license.

(2) The drive test shall be conducted on public streets and highways.

(3) 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.

(4) In addition to the actual drive test, applicants for a Class A or B commercial driver license shall perform a pre-trip inspection. Applicants for a Class C commercial driver license with a passenger endorsement also shall perform a pre-trip inspection. The pre-trip inspection shall include checks of the applicant's ability to demonstrate his or her knowledge and skill in inspecting the vehicle's equipment to ensure it is in safe operating condition. A pre-trip inspection may include the following:

- (a) Inspection of the following vehicle equipment:
 - (A) Tires and wheels;
 - (B) Controls, including steering wheel, brake pedal, clutch pedal (if applicable) and accelerator pedal;
 - (C) Engine start;
 - (D) Engine compartment;
 - (E) Suspension;
 - (F) Exterior part of vehicle, including driver and fuel areas, undercarriage of vehicle and lighting indicators;
 - (G) Other miscellaneous equipment, including passenger exits, seating and baggage compartment; and
 - (H) Braking system, including the air brake system warning devices and controls if the vehicle is equipped with air brakes.
- (b) Explanation to Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) representative as to what possible problem is being identified; and
- (c) Explanation to DMV's representative as to how to determine if the vehicle equipment is in safe operating condition.

(5) 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, except as indicated in section (6) of this rule. If the applicant fails the first drive test, additional drive tests shall be conducted, as needed, with the following frequency:

(a) A second drive test may be conducted no sooner than seven days after the first drive test;

(b) A third drive test may be conducted no sooner than 14 days after the second drive test;

(c) A fourth drive test may be conducted no sooner than 28 days after the third drive test; and

(d) A fifth drive test may be conducted no sooner than 28 days after the fourth drive test.

(6) The first drive test for a provisional license applicant under 18 years of age may be conducted the day the applicant becomes eligible for the test. To be eligible for a drive test, the applicant must have successfully passed the knowledge test and vision screening or present a valid instruction permit. If the applicant fails the first drive test, additional drive tests shall not be conducted until the applicant has had an instruction permit for a period of not less than one month following the first drive test failure. For the purposes of this rule, "one month" means 28 days. Additional drive tests shall be conducted with the following frequency:

(a) A second drive test may be conducted no sooner than 28 days after the first drive test;

(b) A third drive test may be conducted no sooner than 28 days after the second drive test;

(c) A fourth drive test may be conducted no sooner than 28 days after the third drive test; and

(d) A fifth drive test may be conducted no sooner than 28 days after the fourth drive test.

(7) 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 shall be conducted for one year from the date of the fifth drive test failure.

(8) During or after any demonstration of driving ability, DMV may, based on reasonable belief that further examination will unnecessarily endanger life or property, refuse to conduct any further drive tests for the person. In most cases, the person's present license, if any, will be suspended.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 802.540, ORS 807.070 & ORS 807

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

735-062-0075

Commercial Driver License Testing, Additional Provisions

In addition to the requirements of any other law or rule, the following apply to Commercial Driver License (CDL) tests:

(1) Fees for CDL knowledge tests and skills tests shall be paid prior to taking the test. The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall not refund test fees if the applicant fails the test.

(2) Applicants for a Class A commercial driver license shall pass a "combination vehicle" knowledge test for combination vehicles. There is no fee for this test.

(3) A restriction prohibiting the operation of vehicles with air brakes shall be included on any CDL unless the applicant:

(a) Passes the air-brake knowledge test; and

(b) Passes the skills test in a vehicle equipped with air brakes, when a skills test is required.

(4) For purposes of application for and issuance of a commercial driver license (CDL), DMV shall accept CDL knowledge and skills test results from another state if the state has received written approval for their CDL testing program from the Federal Highway Administration under the provisions of the Commercial Motor Vehicle Safety Act of 1986.

(5) CDL test scores can be used to convert to a CDL for two years from the date the test is passed. After two years the applicant must retake and pass the necessary tests to convert.

(6) Three postponements due to equipment failure shall be considered a skills test failure and the \$56 skills test fee shall be forfeited. An additional \$56 skills test fee shall be paid for subsequent skills tests.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807.031 & Ch. 636, OL 1989

Stats. Implemented: ORS 807.070

Hist.: MV 58-1989, f. 12-29-89, cert. ef. 1-1-90; MV 6-1990, f. & cert. ef. 4-2-90; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 4-1992, f. & cert. ef. 4-16-92

735-062-0080

Waiving Drive Test Portion of Driver License Examination

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall waive the actual demonstration of a person's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The person surrenders to DMV a driver license issued to the person by another state, the District of Columbia, a United States Territory or a Canadian Province that has not been expired for more than one year, or if the person's driver license issued by another jurisdiction, has been lost or stolen, the person submits a letter of clearance, as required in OAR 735-062-0000;

(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 person 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 person's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The person has no physical or mental condition that provides DMV with reason to question the person's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) DMV shall waive the actual demonstration of a person's ability to drive a Class A, B, or C commercial motor vehicle if the person surrenders to DMV a commercial driver license and satisfies the requirements in subsection (a) or (b) of this section:

(a) The person must meet the qualifications set forth in subsections (1)(a) through (e) of this rule and possess an out-of-state commercial driver license approved by the Federal Highway Administration that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made; or

(b) The person shall submit to DMV a Certificate of Competency, Form 6771, in accordance with OAR 735-060-0130.

(3) DMV shall waive the actual demonstration of a person's ability to drive a motorcycle if:

(a) The person surrenders to DMV a motor-cycle-endorsed driver license issued to the person 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 person meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(4) In addition to section (3) of this rule, DMV shall waive the actual demonstration of a person's ability to drive a motorcycle if:

(a) The person passes a motorcycle skills test given during a motorcycle rider education course established by the Traffic Safety Section under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle rider education course meets or exceeds the motorcycle skills test administered by DMV.

(5) Evidence of passing the motorcycle skills test identified in section (4) of this rule shall be a "Motorcycle Rider Course Riding and Street Skills Completion Card" as provided for in OAR 735-062-0140. The completion card must have been issued on or after October 3, 1989, to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, ORS 807.070, ORS 807.080 & ORS 807.170

Stats. Implemented: ORS 807.070, ORS 807.080 & ORS 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

735-062-0085

Good Driving Record for Farm Endorsement

(1) "Good driving record" for purposes of obtaining a farm endorsement means the person's two-part driving record does not show:

(a) A conviction for a major traffic offense as defined in ORS 153.500(5) within five years of the date of application; or

(b) A traffic accident within two years of the date of application except as provided in section (2) of this rule.

(2) An applicant who has an accident on his or her driving record and has no other disqualifying offense shall be considered to have a good driving record, unless the person was convicted of an offense relating to the accident.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807, Ch. 185, OL 1991 & Ch. 636, OL 1989

Stats. Implemented: ORS 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

735-062-0090

Renewal Driver Licenses and Identification Cards

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall renew the driver license of a person satisfying the requirements set forth in ORS 807.150.

(2) Persons applying for the renewal of a driver license or identification card shall present to DMV any two of the proofs of age and/or identity listed in OAR 735-062-0020.

(3) Persons renewing a driver license or identification card that includes a change of residence address shall 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.) Such documentation shall not be required if the license or identification card is renewed by mail.

(4) Persons with a driver license that has been expired more than one year, and who want to restore their driving privilege, must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0000.

(5) An applicant for a renewal of a commercial driver license with a hazardous materials endorsement shall retake and pass the hazardous materials knowledge test and meet the requirements set forth in OAR 735-060-0170(3) to retain the hazardous materials endorsement on the commercial driver license.

(6) An applicant for a renewal of a commercial driver license must meet the requirements set forth in OAR 735-060-0170(3).

(7) DMV shall make an inquiry to the National Driver Register before processing a driver license renewal to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.

(8) DMV shall require the applicant to provide a clearance letter in compliance with OAR 735-062-0160. The clearance letter shall state the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register indicates the applicant's driving privileges are not fully valid.

(9) DMV shall not renew driving privileges of a person until his or her driving privileges are reinstated in all jurisdictions except as provided in OAR 735-064-0240.

(10) DMV shall not renew an Oregon driver license or permit if the applicant has a current, valid Oregon identification card. To become eligible, the person shall surrender the Oregon identification card before DMV may 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 shall provide a statement attesting to this fact.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.012 & ORS 807.040

Stats. Implemented: ORS 802.012, ORS 802.540, ORS 807.040 – ORS 807.060, ORS 807.100, ORS 807.150 & ORS 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

735-062-0095

Transition to Eight Year Renewal Cycle

As authorized by Oregon Laws 1999, chapter 91, section 9, the following rules are adopted as necessary for an orderly transition to

an eight-year period for issuance and renewal of driver licenses, endorsements, identification cards, disability golf cart driver permits, and disabled person parking permits.

(1) The transition period begins on October 1, 2000 and ends on October 1, 2008. In order to complete the full transition to the eight-year period by October 1, 2008, after September 30, 2004 DMV will stop issuing renewal reminder notices that authorize a person to renew by mail. Licensees required to renew a driver license after September 30, 2004 must appear in person at a DMV office.

(2) Beginning October 1, 2000 DMV will issue an Oregon license or identification (ID) card for an eight-year period when:

(a) Issuing a first license or ID card;

(b) Issuing a license upon restoration of revoked driving privileges;

(c) Issuing a license upon restoration of cancelled driving privileges;

(d) Issuing a license or ID card when the previous license or ID card has been expired for more than one year; or

(e) Renewing the license of a person who is required to renew in person at a DMV field office.

(3) DMV will renew a license or ID card for a four-year period when:

(a) Renewing the license of a person who is eligible to renew by mail whether the person renews by mail or in person at a DMV field office; or

(b) Renewing an ID card.

(4) Fees will be charged as follows:

(a) A license, ID card, endorsement or permit issued or renewed for a four-year period will be charged the applicable fee in effect prior to October 1, 2000; and

(b) A license, ID card, endorsement or permit issued or renewed for an eight-year period will be charged the applicable fee in effect after October 1, 2000.

Stat. Auth.: ORS 184.616, ORS 184.619, & section 9, ch. 91, OL 1999

Stat. Imp. ORS 807.130, ORS 809.310 & ORS 809.390

Hist.: DMV 12-2000, f. & cert. ef. 9-21-00

735-062-0100

Driver License Renewal by Mail Program

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) may renew a driver license by mail in lieu of requiring the person to renew in person at a DMV field office. A license renewed by mail expires four years from the expiration date of the immediately preceding license.

(2) Licensees who have a commercial or non-commercial driver license are eligible to renew a driver license by mail, except licensees who:

(a) Have a driver license that includes a J restriction;

(b) Have a hazardous materials endorsement;

(c) Must change information shown on the license to be renewed, including change of name, personal description, license type or license restrictions, except for change of address;

(d) Have any changes in physical condition, including vision, which might impair the person's ability to safely operate a motor vehicle or which require a change in a license restriction; or

(e) Renewed their immediately preceding driver license by mail.

(3) Driver license renewal stickers are issued through the mail only. To renew by mail, an eligible licensee must submit their completed driver license renewal reminder form to DMV, 1905 Lana Avenue NE, Salem, Oregon 97314, together with the renewal fee.

(4) The driver license renewal sticker must be attached to the back of the licensee's driver license to be valid. A renewed driver license that does not have the renewal sticker attached to it is not valid. A renewal sticker that is not attached to a driver license is not valid.

(5) DMV will issue a no-fee renewal sticker to a licensee whose renewal sticker is lost, mutilated or destroyed.

(6) When a licensee with a renewal sticker submits a change of address to DMV, a duplicate renewal sticker will be issued.

(7) If a person is eligible to renew their driver license by mail but comes in person to a DMV field office for a renewal, they must have their photograph taken and will be issued a new photo driver

license that expires four years from the expiration date of the immediately preceding license.

(8) After September 30, 2004, DMV will stop issuing renewal reminder notices that authorize a licensee to renew by mail. Licensees required to renew a driver license or permit after September 30, 2004 must appear in person at a DMV office.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.150, ORS 807.370 & 807.380
Stats. Implemented: ORS 807.380

Hist.: MV 21-1981, f. 10-30-81, ef. 11-1-81; MV 21-1983, f. 12-30-83, ef. 1-1-84; MV 2-1984, f. & ef. 3-6-84; MV 14-1985, f. 10-8-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0039; MV 6-1990, f. & cert. ef. 4-2-90; MV 19-1990, f. 12-17-90, cert. ef. 1-1-91; DMV 12-2000, f. & cert. ef. 9-21-00

735-062-0105

Waiver of Duplicate License Fees

(1) For purposes of convenience, DMV will issue a new license and waive the license replacement fee if, after filing a driver license renewal application or a change of address form, a customer does not receive the driver license extension sticker or address change sticker.

(2) To receive the no-fee driver license, the customer must:

(a) Come in person to a DMV field office;

(b) Show proof of current residence address, even if the address appears on the customer record; and

(c) Surrender the license replaced to DMV.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.390

Stat. Imp.: ORS 807.160 & ORS 807.390

Hist.: DMV 21-2001, f. & cert. ef. 10-18-01

735-062-0110

Duplicate Driver Permits, Driver Licenses, and Identification Cards

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall issue a duplicate or replacement driver permit or driver license to a person who meets the requirements set forth in ORS 807.160.

(2) Persons applying for a duplicate driver license, driver permit, or identification card shall present to DMV any two of the proofs of age and/or identity listed in OAR 735-062-0020.

(3) Persons who apply at a DMV field office for a duplicate driver license, driver permit, or identification card that includes a change of residence address shall 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 residence address to be included on the license, permit, or identification card to be issued.

(4) All requests for a duplicate to change an address must be submitted in writing to DMV. DMV shall not accept any telephone requests for an address change.

Stat. Auth.: ORS 802.010, ORS 802.540, ORS 807.040 - ORS 807.070, ORS 807.150, ORS 807.160, ORS 807.220, ORS 807.230 & ORS 807.400

Stats. Implemented: ORS 807.160

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0013

735-062-0115

Non-Issue of a Duplicate Driver License Following Confiscation

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall not issue a duplicate driver license to a person whose driving record indicates a pending Implied Consent Law suspension under ORS 813.100.

(2) DMV shall issue a temporary driving permit, Form 45, instead of a duplicate driver license if the person is eligible for driving privileges.

(3) The permit issued under section (2) of this rule shall be valid until the Implied Consent Law suspension takes effect or until the person's driver license expires.

Stat. Auth.: ORS 802.010 & ORS 813.110

Stats. Implemented: ORS 807.160, ORS 813.100 & ORS 813.110

Hist.: MV 5-1990, f. & cert. ef. 3-5-90

735-062-0120

Standards for Issuance of Driver's Licenses Without a Photograph

(1) The Manager of the Driver and Motor Vehicle Services Division of the Department of Transportation (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) Who has severe facial disfigurement; or

(c) Who is temporarily absent from Oregon.

(2) Any person who receives a driver license without a photograph because of being temporarily absent from Oregon must make application to DMV within 30 days after returning to Oregon, surrender the license that was issued without a photograph, and pay for a duplicate/replacement license bearing a photograph.

Stat. Auth.: ORS 802.010 & ORS 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

735-062-0130

Issuance of Driver License with New Number

(1) A person who applies for a new driver license that bears a different number from the driver license replaced under ORS 807.160(3) shall submit proof of fraudulent use of the lost driver license.

(2) Acceptable proof of fraudulent use shall include:

(a) A copy of the police report which includes the applicant's name and driver license number and contains information which indicates the police agency has reason to believe the lost driver license is being used fraudulently; or

(b) A letter on a police agency's letterhead that includes a statement that the police agency has reason to believe the person's lost license is being used fraudulently. The letter must include the applicant's name and driver license number and be signed by the investigating officer or head of the police agency.

Stat. Auth.: ORS 802.010 & Ch. 535, OL 1989

Stats. Implemented: ORS 807.160

Hist.: MV 26-1989, f. & cert. ef. 10-3-89

735-062-0140

Proof of Completion of a Motorcycle Rider Education Course

For purposes of issuing a motorcycle endorsement to persons under 21 years of age, DMV shall only accept a motorcycle rider education course approved by the Department of Transportation in accordance with ORS 802.320. As proof of completion of a motorcycle rider education course, DMV shall accept a card, which minimally includes:

(1) The applicant's name;

(2) The date of the course;

(3) Where the course was taken;

(4) The signature of the instructor; and

(5) The instructor's certification number as assigned by the Motorcycle Safety Foundation.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.175

Stats. Implemented: ORS 807.170 & ORS 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

735-062-0150

Restricted Class B Commercial Driver License

(1) On or after October 4, 1997, a restricted Class B Commercial Driver License (CDL) is deemed to be the equivalent of a Class B CDL having a passenger endorsement, with the following restriction: The holder may operate only a school bus or school activity vehicle with the gross vehicle weight rating noted on the School Bus Driver Certificate issued pursuant to OAR 581-053-0006 and any vehicle that may be operated by the holder of a Class C license.

(2) On or after October 4, 1997, whenever the holder of a restricted Class B CDL is required to appear or voluntarily appears in person at a DMV office to renew or replace the license, DMV shall issue a Class B CDL or a Class C CDL, as qualified below:

(a) To qualify for a Class B CDL, the holder of a restricted Class B CDL must possess a School Bus Driver Certificate that authorizes operation of a vehicle with a gross vehicle weight rating of 26,001 pounds or more. The School Bus Driver Certificate must be valid or have been expired for less than one year.

(b) To qualify for a Class C CDL, the holder of a restricted Class B CDL must possess a School Bus Driver Certificate that authorizes operation of a vehicle designed to transport 16 or more persons, including the driver, with a gross vehicle weight rating of less than 26,001 pounds. The School Bus Driver Certificate must be valid or have been expired for less than one year.

(3) Upon renewal or replacement of a restricted Class B CDL as described in section (2) of this rule, the holder of a restricted Class B CDL who possesses a School Bus Driver Certificate that has been expired for one year or more is not qualified to be issued a CDL. DMV shall issue the holder a Class C non-commercial driver license.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: OL 1997, Ch. 83, ORS 807.031, ORS 807.070 & ORS 807.120

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 9-1997, f. & cert. ef. 10-16-97

735-062-0160

Clearance Letter

(1) A clearance letter required in OAR 735-062-0000, 735-062-0090 and 735-070-0000 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, shall 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 shall 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 Branch of the Department of Transportation (DMV) shall 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 shall 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, ORS 802.200, ORS 802.540, ORS 807.040, ORS 807.045, ORS 807.050, ORS 807.060, ORS 807.070, ORS 807.150, ORS 807.170 & ORS 809.310

Stats. Implemented: ORS 807.050

Hist.: MV 14-1992, f. & cert. ef. 10-16-92

DIVISION 64

SPECIAL DRIVER PERMITS

735-064-0005

Definitions

As used in Division 64 rules, unless the context requires otherwise:

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

(2) "DUII" means driving under the influence of intoxicants.

(3) "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.

(4) "Fee" is an amount defined in ORS 807.370.

(5) "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.

(6) "IID" means ignition interlock device.

(7) "Intoxicants" means intoxicating liquor, any controlled substance, any inhalant or any combination of the three.

(8) "Immediate family" means the applicant's spouse, children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.

(9) "OADAP" means Office of Alcohol and Drug Abuse Programs.

(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, ORS 184.619, ORS 807.240 & ORS 807.270

Stats. Implemented: ORS 801.317, ORS 807.240, ORS 807.270 & ORS 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

735-064-0020

Who Can Apply for a Hardship or Probationary Permit

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

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

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

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

(d) ORS 809.410(13) for failure to appear for or pass required tests because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition which makes the person unsafe to drive a motor vehicle;

(e) ORS 809.410(14) for failure to obtain a required medical clearance because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition which makes the person unsafe to drive a motor vehicle;

(f) ORS 809.410(16) for a mental or physical condition because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition which makes the person unsafe to drive a motor vehicle;

(g) ORS 809.410(17) for habitual incompetence, recklessness or criminal negligence or committing a serious violation of the motor vehicle laws because ORS 809.410(17)(b) states this suspension is subject to any conditions the department determines necessary. The department has determined that a person suspended under this subsection shall not be issued a hardship permit;

(h) ORS 809.410(22) upon notification by the superintendent of a hospital because ORS 813.520 provides that no hardship permit

may be issued if a person has a mental or physical condition which makes the person unsafe to drive a motor vehicle;

(i) ORS 809.410(23) when a person charged with a traffic offense has been found guilty except for insanity because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition which makes the person unsafe to drive a motor vehicle;

(j) ORS 809.410(28) when the holder of a provisional driver license is convicted of an offense listed in ORS 809.600(1) because ORS 809.405(4) does not allow the issuance of any driving privileges; or

(k) 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, as required by ORS 813.602(1)(a).

(2) A hardship permit may be issued to authorize a person to drive a commercial motor vehicle unless the person's commercial driver license is suspended independently of a suspension of the person's class C driver license.

(3) Any Oregon resident whose driving privileges are revoked as an habitual traffic offender may apply for a probationary permit unless the person's driving privileges are also revoked for any reason other than being an habitual traffic offender or are also suspended for any of the reasons listed in section (1) of this rule.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.240, ORS 807.252, ORS 807.270, ORS 809.410 & ORS 813.520

Stats. Implemented.: ORS 25.780, ORS 807.062, ORS 807.240, ORS 807.250, ORS 807.270, ORS 809.265, ORS 809.380, ORS 809.390, ORS 809.410, ORS 813.500, ORS 813.510, ORS 813.520 & ORS 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

735-064-0030

Hardship or Probationary Permit Waiting Periods Following Implied Consent or DUI Suspensions

(1) A person may be required by law to wait to be issued a hardship or probationary permit if the person is currently suspended for:

- (a) Refusing the breath test;
- (b) Failing the breath test;
- (c) Refusing the blood test;
- (d) Failing the blood test;
- (e) Refusing the urine test; or
- (f) A conviction for driving while under the influence of intoxicants.

(2) **Tables 1 and 2** summarize statutory suspension periods and waiting times.

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

Stat. Auth.: ORS 184.616, ORS 807.240 & ORS 807.270

Stats. Implemented.: ORS 807.240, ORS 809.400, ORS 809.420, ORS 813.100, ORS 813.430, ORS 813.520 & Ch. 676, OL 1995

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

735-064-0040

Application Requirements for a Hardship or Probationary Permit

(1) Documents required to obtain a hardship permit depend upon the reason(s) for the suspension. Documents required to obtain a probationary permit depend upon 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 their suspension and/or revocation. All applicants shall:

- (a) Complete a Hardship/Probationary Application, Form 735-6044. This form is available at any DMV office; and
- (b) Pay the hardship or probationary permit fee and the reinstatement fee.

(2) An applicant whose driving privileges are suspended based upon 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 shall obtain the recommendation and

signature of the convicting judge on the Hardship/Probationary Application form.

(3) An applicant 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 shall submit a recommendation for issuance of a hardship or probationary permit from a program approved by OADAP.

(4) Unless driving privileges are suspended for a DUII conviction, an applicant for a hardship permit shall submit an 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, shall submit only an SR22 certificate. An applicant for a probationary permit shall submit an SR22 insurance certificate if the applicant's driving privileges are suspended in addition to the habitual traffic offender revocation.

(5) An applicant for a probationary permit shall have a licensed physician submit a completed Certificate of Medical Eligibility, Form 735-6587, to the Driver Medical Certification Program, DMV. DMV will submit the form to the Assistant Director for Health to determine if the applicant is medically qualified to drive.

(6) An applicant for a probationary permit shall submit verification of the successful completion of a driver improvement course approved by DMV. (Names of approved courses can be obtained by calling DMV.)

(7) An applicant shall provide the following information, depending upon the driving privileges sought:

(a) An applicant who is required to drive for employment purposes shall provide the routes, counties, days and times the applicant is required to drive. In addition, this information shall be supported by any of the following that apply:

(A) The applicant shall 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 shall 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 shall 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 shall 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, shall 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 shall submit a signed statement from the physician 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 shall 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.

(8) Applicants may submit documents to DMV as they meet requirements. DMV, however, shall 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, ORS 807.240 & ORS 807.270

Stats. Implemented.: ORS 807.240, ORS 807.250, ORS 807.270, ORS 807.370, ORS 813.500 & ORS 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 735-031-0095; MV 29-1989, f. & cert. ef. 10-3-89; DMV 12-1996, f. & cert. ef. 12-20-96

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; and

(d) To look for work.

(3) Hardship permits may also be issued for the following reasons:

(a) To obtain medical treatment on a regular basis for the person or a member of the person's immediate family; and

(b) Family necessities only if the person's driving privileges are suspended for violation of ORS 165.805, 471.430 or 806.010, to provide necessary service to the person or a member of the person's immediate family.

(4) A hardship or probationary permit shall 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 shall be restricted to 12 hours per day, seven days per week. It shall 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 shall 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;

(c) Physical limitations of applicant; and

(d) Personal safety of applicant.

(8) If the applicant is suspended for two or more reasons, the applicant shall satisfy the requirements for each type of suspension.

(9) If the applicant is revoked as an habitual traffic offender and the applicant's driving privileges are also suspended, the applicant shall satisfy all hardship permit requirements for each suspension in addition to the probationary permit requirements.

Stat. Auth.: ORS 184.616 & ORS 807.270

Stats. Implemented: ORS 807.240, ORS 807.270 & ORS 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 735-031-0105; MV 17-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 12-1996, f. & cert. ef. 12-20-96

735-064-0070**Ignition Interlock Device (IID) Requirement for Issuance of Hardship or Probationary Permits**

(1) DMV will require a person convicted of DUII in an Oregon court to have an IID installed in any vehicle the person operates if the person's driving privileges are currently suspended for the DUII conviction or are suspended for failure to install an IID at the end of the DUII suspension, and the person applies for a hardship permit. The IID will be required before a hardship permit is issued.

(2) DMV will issue a hardship/probationary permit if a person's driving privileges are revoked as a habitual offender and are also suspended for a DUII conviction in an Oregon court. It will be a condition of a hardship/probationary permit that a person install, maintain or use an IID while the person's driving privileges are suspended for the DUII conviction and for the six months following the ending of the DUII suspension. The IID will be required before a hardship/probationary permit is issued.

(3) While a DUII suspension or a suspension for failure to install an IID remains in effect, DMV will require an IID to be

installed, maintained and used as long as the person has a valid hardship or hardship/probationary permit.

(4) When installation of an IID is required, DMV will not issue a hardship or hardship/probationary permit to the person until the installer submits an installation report form showing an approved device has been installed in the person's vehicle. The installer or designee of the IID manufacturer, who installed the device, must sign the installation report form.

(5) For purposes of ORS 813.066, DMV will place a notation on the driving record that the person's employer has been informed of the IID requirement in the hardship or hardship/probationary permit issued to the person. DMV must receive 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 of employment; or an Employer IID Exemption, (DMV form 735-6874) submitted by the employer.

(6) 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.

(7) 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 is granted a medical exemption from the IID requirement. To apply for medical exemption the person must submit:

(a) A written, signed statement from an IID installer stating the installer 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, physician assistant or nurse practitioner containing the following information:

(A) The name of the exempting medical condition;

(B) Whether the condition is temporary or permanent and if temporary, when 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.

(8) When application for a medical exemption is made under section (7) of this rule and approved by DMV, DMV shall issue a medical exemption letter. The person shall carry a copy of DMV's medical exemption letter while operating any motor vehicle which would otherwise require installation and use of an IID.

(9) DMV will include information in the hardship or hardship/probationary permit restriction that the person shall only operate vehicles equipped with an IID. If the person operates a vehicle owned or leased by the person's employer in the course of employment or has been issued a medical exemption, the hardship or hardship/probationary permit driving restrictions shall include that the person must have in his or her possession a copy of the employer's letter or Employer IID Exemption Form from his or her employer, or medical exemption letter.

(10) In order for the person to have the IID periodically checked or maintained, DMV will include in the hardship or hardship/probationary permit driving restriction sufficient time for the person to travel to and from the installation facility.

Stat. Auth.: ORS 184.616, ORS 807.240, ORS 807.270 & ORS 813.602

Stats. Implemented: ORS 807.240, ORS 807.270 & ORS 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

735-064-0080**How the Hardship or Probationary Permit Is Issued**

(1) When all of the documents are received by the Driver Suspensions Unit and a hardship or probationary permit is approved, DMV shall mail a hardship or probationary permit to the address the applicant submitted on his or her Hardship/Probationary Application. The hardship or probationary permit will contain restrictions, and

will authorize any DMV field office to issue a restricted driver license.

(2) The hardship or probationary permit is part of the driver license. The person shall carry the hardship or probationary permit in addition to a valid driver license at all times while driving.

(3) A probationary permit shall be issued for one year.

(4) A person must renew a probationary permit yearly and must continue to meet all applicable requirements for issuance of the probationary permit. The renewal period shall be one year or until the end of the revocation, whichever is shorter.

Stat. Auth.: ORS 184.616, ORS 807.240 & ORS 807.270

Stats. Implemented: ORS 807.240 & ORS 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

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 shall 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 shall 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 shall submit a recommendation for the change from a program approved by OADAP.

(4) The person who is eligible to drive to and from medical treatment as described in OAR 735-064-0040(7)(c), shall 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 shall mail the applicant a hardship or probationary permit with new driving restrictions. The person shall carry the hardship or probationary permit in addition to a valid driver license at all times while driving.

Stat. Auth.: ORS 184.616, ORS 807.240 & ORS 807.270

Stats. Implemented: ORS 807.240, ORS 807.270 & ORS 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

735-064-0100

Hardship or Probationary Permit Restrictions

(1) No person issued a hardship or probationary permit shall do any of the following:

(a) The person shall not drive outside the hardship or probationary permit driving restrictions;

(b) The person shall 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 shall not be convicted of or forfeit bail for an offense as specified in ORS 809.600(1)(a) through (f). 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;

(d) The person shall not use intoxicants and drive;

(e) The person shall not refuse to submit to a chemical breath test, blood test or urine test;

(f) The person shall not be convicted of or forfeit bail for an offense under ORS 811.170; or

(g) The person shall not falsify any information appearing on the Hardship/Probationary Application.

(2) The person required to have an IID shall not violate the following provisions:

(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 remove it from the vehicle; or

(d) Solicit another to blow into the IID.

(3) The person shall maintain any required recommendation from a program approved by OADAP and the court recommendation for a hardship or probationary permit during the term of the hardship or probationary permit.

(4) Evidence that a restriction has been violated shall include, but not be limited to the following:

(a) Police reports;

(b) Accident reports;

(c) Reports from rehabilitation/treatment agencies;

(d) Written reports from family members or the general public;

(e) An official report which indicates the person has driven outside the hardship or probationary permit restrictions;

(f) An official report which indicates the person has been driving after using intoxicants;

(g) Receipt of a copy of a 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;

(h) An official report from a police officer;

(i) A court conviction; and

(j) A written, signed statement from an approved IID installer.

Stat. Auth.: ORS 184.616, ORS 807.270 & ORS 813.510

Stats. Implemented: ORS 807.240, ORS 807.270, ORS 813.100, ORS 813.510, ORS 813.602, ORS 813.608, ORS 813.610, ORS 813.612, ORS 813.614 & Ch. 676, OL 1995

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

735-064-0110

Consequences of Violations of Restrictions, Conditions, Limitations or Requirements of a Hardship or Probationary Permit

(1) A violation of any of the restrictions, conditions, limitations or requirements of a hardship or probationary permit as listed in OAR 735-064-0100 shall result in the revocation of the person's hardship or probationary permit, except as provided in section (2) of this rule.

(2) When a program approved by OADAP, withdraws a required recommendation under ORS 813.500:

(a) The first withdrawal of the recommendation shall result in suspension of the hardship or probationary permit until the ending date of the DUII suspension or until the driver obtains a new recommendation, whichever is sooner; and

(b) A second withdrawal shall result in revocation of the hardship or probationary permit.

(3) The person whose hardship permit is revoked shall not be eligible for another hardship permit during the suspension period or for one year from the date of revocation, whichever is shorter.

(4) The person whose probationary permit is revoked shall not be eligible for another probationary permit for one year from the date of the revocation of the probationary permit.

(5) The person whose hardship or probationary permit is revoked based on a notice from a court shall be provided notice and opportunity for an administrative review conducted under ORS 809.440(3).

(6) The person whose hardship or probationary permit is suspended or revoked for any other reason shall be provided notice and

opportunity for an administrative hearing under ORS 809.360(3) and 809.440(1).

Stat. Auth.: ORS 184.616, ORS 807.270 & ORS 813.510
 Stats. Implemented: ORS 807.240, ORS 807.270, ORS 813.500 & ORS 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

735-064-0220

Traffic Offenses Used in Habitual Offender, Driver Improvement and Hardship/Probationary Driver Permit Programs

(1) Offenses listed in ORS 809.600(2)(b), with the exception of Failure to Yield to a Transit Bus Entering Traffic under ORS 811.167 and Misuse of Special Left Turn Lane under ORS 811.346 (see the footnote in Oregon Revised Statutes following these statutes), are used to determine driver sanctions in the Hardship/Probationary Driver Permit Program, placement of drivers in the Driver Improvement Program, and for 20 or more offenses in the Habitual Offender Program. The purpose of this rule is to list the literal descriptions of those offenses for easy reference by DMV employees and customers.

(2) This section lists the offenses and the statutory citations for offenses used in the programs identified in section (1) of this rule.

(3) Offenses from other states are posted to driver records using an AAMVANet Code Dictionary (ACD) code or an American National Standards Institute D20 (ANSI) code. ANSI standard conviction abbreviations were the nationally accepted conviction abbreviations all states adopted to allow one state's conviction types to be easily translated to a driving record of another state. As of November 4, 1996, ACD abbreviations are the standard for use instead of the less detailed ANSI D20 codes. Records may show both ANSI and ACD abbreviations until records showing ANSI codes are no longer required to be retained. This section identifies the code that appears on the driver record, the type of code, a description of the offense and the ORS reference covering an equivalent offense(s) for Oregon:

[ED. NOTE: A list of the codes and abbreviations is available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 809.480
 Stats. Implemented: ORS 807.240, ORS 807.270, ORS 809.405, ORS 809.480 & ORS 809.600
 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

735-064-0230

Emergency Driver Permit

(1) An emergency 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 a commercial driver license is required or operation of a motorcycle.

(2) DMV will only issue emergency driver permits for emergency situations, and not for convenience.

(3) An emergency situation is the need for a person to drive to and from:

- (a) Medical aid 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.

(4) If an emergency driver permit is issued because a court has denied a juvenile's driving privileges under ORS 809.260, an emergency situation will also include the need for a person to drive to and from school when no other means of transportation is available.

(5) An emergency driver permit expires:

(a) At the end of the emergency or sixty days after the applicant's 16th birthday, whichever comes first; or

(b) At the end of the emergency or at the end of the suspension period if the permit was issued because a court has denied a juvenile's driving privileges under ORS 809.260.

(6) Except as provided in section (7) of this rule, an applicant for an emergency driver permit must:

(a) Submit a completed Emergency Operator's Permit Application, Form 735-0010, signed by the applicant's parent or legal guardian and the sheriff of the county in which the applicant resides;

(b) Pay the emergency driver permit fee as established by ORS 807.370;

(c) Pay the reinstatement fee as established under ORS 807.370 if the applicant's driving privileges are suspended by court denial; and

(d) Fulfill all applicable requirements of ORS chapter 807 and OAR 735, division 62 for issuance of a class C driver license.

(7) 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 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.

(8) In addition to any other driving restrictions that may be imposed by DMV, the holder of an emergency driver permit may not drive a motor vehicle carrying any passenger under the age of 20 who is not a member of the permit holder's immediate family.

Stat. Auth.: ORS 184.616, ORS 807.120, ORS 184.619, ORS 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

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 a commercial driver license is 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) A special student driver permit expires when the applicant has other means of transportation to and from school, college or other educational institutions or 60 days after the applicant's 16th birthday, whichever occurs first.

(4) Except as provided in section (5) 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 the special student driver permit fee established by ORS 807.370(19);

(c) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, division 62 for issuance of a class C driver license; and

(d) Provide proof satisfactory to DMV that the applicant has no other means of transportation available and sufficient driving experience to safely drive the designated route, 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;

(B) The hours for which the applicant needs the permit and a copy of public transportation schedules; and

(C) A written statement describing what driving experience the applicant has, and how that experience equates to the applicant being able to safely drive the route.

(5) 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; or

(c) Complete a traffic safety education course.

(6) 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 age 20 who is not a member of the 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.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.120, ORS 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

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. An emergency driver permit or special student driver permit shall be canceled if DMV determines that the permit holder has driven outside the permit driving restrictions.

(2) Evidence used in making the determination required by section (1) of this rule, shall include, but not be 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) A person whose emergency driver permit or special student driver permit has been canceled shall not be eligible for any form of driving privileges, including an emergency driver permit or special student driver permit, until he/she is 16 years of age and is otherwise eligible for a driver license under ORS 807.060.

(4) The person whose emergency driver permit or special student driver permit is canceled shall 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, ORS 184.619, ORS 807.220 & ORS 807.230

Stats. Implemented: ORS 807.220 & ORS 807.230

Hist.: DMV 4-1998, f. & cert. ef. 4-15-98

DIVISION 70

DRIVER LICENSES — REFUSAL, SUSPENSIONS, CANCELLATIONS, REVOCATION AND REINSTATEMENT

735-070-0000

Driver License Cancellations—Not Entitled to Driving Privileges

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall, under the provisions of ORS 809.310(1), cancel a person's driving privileges if DMV determines the person is not entitled to 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 807.060.

(3) A person is not entitled to a driver permit or driver license if the person's driving privileges are suspended, revoked, canceled or in any other way not fully valid in any jurisdiction except as provided in OAR 735-064-0240.

(4) If a person's driving privileges are suspended or revoked in any other jurisdiction for failure to appear in court or failure to comply with a court order, the person shall not be entitled to a driver permit or driver license, regardless of the reason for the underlying citation or conviction.

(5) For purposes of this rule and ORS 809.310, a bail forfeiture in another jurisdiction shall be considered a conviction, even if a bail forfeiture is not permitted in this state for that particular offense.

(6) A cancellation that takes place because a person is not entitled to a driver license or permit shall remain in effect until the person corrects the condition causing the cancellation.

(7) A person whose driving privileges are canceled under this rule shall not be required to reapply or re-establish the person's eligibility for issuance of driving privileges if otherwise eligible for an Oregon driver license or driver permit.

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 802.540, ORS 807.040, ORS 807.050, ORS 807.060, ORS 807.070, ORS 807.120, ORS 807.150, ORS 807.400, ORS 809.310 & Ch. 535, OL 1989

Stats. Implemented: ORS 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

735-070-0004

Cancellation and Suspension Actions Under ORS 809.310 and 809.320

(1) When the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) cancels or suspends a person's driver permit or driver license because the person committed any of the acts cited in ORS 809.310, DMV shall also take the same action against any other driver permits or driver licenses that may have been issued to the person. When a cancellation or suspension involves multiple driver permits or driver licenses for the same person, all orders shall cite the same reason.

(2) When DMV cancels or suspends a person's identification card because the person committed any of the acts cited in ORS 809.310, DMV shall also take the same action against any other identification cards that may have been issued to the person. When a cancellation or suspension involves multiple identification cards for the same person, all orders shall cite the same reason.

(3) Cancellation or suspension of a person's driver permit or driver license shall not affect the status of any identification card that may have been issued to the person. Similarly, the same actions taken against a person's identification card shall not affect the status of any driver permit or driver license that may have been issued to the person.

Stat. Auth.: ORS 184.616

Stats. Implemented: ORS 809.310 & ORS 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

735-070-0010

Reinstatement Following Cancellation or Suspension Under ORS 807.220, 807.230, 809.310, and 809.320

(1) When a person's driver permit, driver license or identification card is canceled because the person is not entitled to a license, permit or identification card under ORS 809.310(1), the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall reissue the driver permit, driver license or identification card to the person only after the person corrects the condition that caused the cancellation. For example, if the cancellation was

based on a suspension or revocation of the person's driving privilege in another jurisdiction, the person must provide a clearance letter as established in OAR 735-062-0160 indicating the person has valid driving privileges from the other jurisdiction where the person's driving privilege was suspended or revoked.

(2) When a person's driver permit, driver license or identification card is suspended for any of the reasons cited in ORS 809.310(3), DMV shall reinstate the person's driving privileges or right to apply for privileges or an identification card or right to apply for a card when:

(a) One year has elapsed since the date the suspension became effective; and

(b) The person pays a reinstatement fee.

(3) When DMV cancels a person's driver permit or driver license for withdrawal of consent under ORS 809.320, DMV shall reinstate driving privileges when the person:

(a) Pays a duplicate driver permit or driver license fee or a renewal fee, if applicable; and

(b) Submits one of the following if the person is still 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 guardian, or if the person has no mother, father or guardian, by the person's employer;

(B) Court papers showing that the person is declared emancipated by the court; or

(C) Evidence that the person is married.

(4) When a person's student or emergency driver permit is canceled, DMV shall reissue a new driver permit or driver license only when the person meets the requirements in ORS 807.040 and OAR 735-062-0000 to obtain a driver permit or driver license.

Stat. Auth.: ORS 184.616

Stats. Implemented: ORS 807.220, ORS 807.230, ORS 807.400, ORS 809.310 & ORS 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

735-070-0020

Hearing or Administrative Review Following a Cancellation

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall grant a contested case hearing or administrative review for cancellation actions in accordance with sections (5), (6), and (7) 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 (Hearings Case Management Unit) receives a timely request for a hearing on the cancellation of a driver permit, driver license, or identification card, DMV (Hearings Case Management Unit) shall withdraw the cancellation pending the outcome of the hearing, except in the following situations in which the cancellation shall not be rescinded:

(a) When DMV (Document Processing Service Group) determines that there is a serious danger to the public health, safety, or welfare;

(b) When the cancellation is for withdrawal of parent's consent;

(c) When the cancellation is based on a conviction; 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 the following situations:

(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 privilege was suspended or revoked, because of a conviction, at the time the driver permit or driver license was 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 privilege was suspended or revoked.

(5) Hearings held on identification card cancellations under ORS 807.400 shall be conducted as contested cases in accordance with ORS 183.310 to 183.550.

(6) Hearings held on driver permit or driver license cancellations under ORS 809.310 not based on a conviction shall be conducted as contested cases in accordance with ORS 183.310 to 183.550.

(7) Hearings held on driver permit or driver license cancellations under ORS 809.310 based on a conviction shall be conducted as administrative reviews in accordance with OAR 735-001-0050.

Stat. Auth.: ORS 183.415, ORS 802.010, ORS 809.440 & Ch. 702, OL 1991

Stats. Implemented: ORS 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

735-070-0030

Suspension/Revocation for Out-of-State Conviction

(1) For purposes of ORS 809.400(1):

(a) The date of a notice of conviction is received by the Driver and Motor Vehicle Services Branch 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, which is also the date the conviction becomes a part of the person's Oregon driving record.

(b) "Initiate" means the date the conviction is entered to the driving record.

(2) Except as provided in ORS 809.400(1), DMV shall 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 shall suspend the commercial driving privileges of a resident of this state upon receiving notice that the person's commercial driving privileges have been suspended or revoked in another jurisdiction for reasons that would be grounds for a commercial driver license suspension in this state under ORS 813.410(2).

Stat. Auth.: ORS 184.616, ORS 802.012 & ORS 809.400

Stats. Implemented: ORS 802.540 & ORS 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

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, ORS 802.200, ORS 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

735-070-0037

Fatal Accidents Used as Serious Traffic Violations

Motor vehicle traffic control violations connected to a fatal accident as referred to in Section 7, Subsection (9), of Chapter 185, Oregon Laws 1991, are offenses referenced in ORS 809.600(1) and (2), and include city traffic offenses and similar offenses under federal or state laws in ORS 809.600(4).

Stat. Auth.: ORS 802.010, ORS 802.200, ORS 807 & Ch. 636, OL 1989 & Ch. 185, OL 1991

Stats. Implemented: ORS 809.410

Hist.: MV 16-1991, f. 9-18-91, cert. ef. 9-29-91

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 Branch 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 Branch 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, 813.410 and Oregon Laws 1995, Chapter 676

(1) A police report required by ORS 813.100 or Oregon Laws 1995, Chapter 676 shall be submitted to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV), Hearings Case Management Unit, on forms approved and distributed by the department.

(2) For the Driver Suspensions Unit to suspend a person's base driving privileges and/or commercial driver license or right to apply for a commercial driver license under ORS 813.410 or Oregon Laws 1995, chapter 676, section 2, 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.

(B) A date of arrest;

(C) A suspension period that conforms to the type of suspension in accordance with ORS 813.404, 813.420 or Oregon Laws 1995, chapter 676, section 2; and

(D) The reporting officer's signature below the statement, "I affirm by my signature that the foregoing events occurred." The officer's signature shall 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 base driving privileges and/or commercial driver license or right to apply for 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 (D) 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, ORS 813.100 & ORS 813.120.

Stats. Implemented: ORS 813.100, ORS 813.120, ORS 813.130, ORS 813.404 - ORS 813.460 & OL 1995, Ch. 676.

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

735-070-0055

Withdrawal of Implied Consent Forms by Police Agency

(1) The Driver Suspension Unit of the Driver and Motor Vehicle Services Branch 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, ORS 813.120, ORS 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

Procedures for Implied Consent Suspensions When Arrested Person Gave a False Name at Time of Arrest

(1) The Driver Suspensions Unit of the Driver and Motor Vehicle Services Branch of the Department of Transportation must verify to its satisfaction that it has suspended the driving privilege of the wrong person under ORS 813.410 or Oregon Laws 1995, Chapter 676, because the arrested person gave a false name. To verify to its satisfaction, as used in ORS 813.460, the Driver Suspensions Unit shall 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) Shall be signed by the reporting officer or a superior officer, or the district attorney if the police agency no longer exists;

(b) Shall state the name of the person whose name was falsely used;

(c) May state the correct name of the arrested person; and

(d) Should include the date of arrest.

(2) When the Driver Suspensions Unit receives this notice, the Driver Suspensions Unit shall vacate 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 arrested person, the Driver Suspensions Unit shall issue a notice of suspension as provided by ORS 813.460.

(4) A suspension issued under ORS 813.460 is effective 35 days from the mailing date of the suspension notice.

(5) The suspension is subject to enhancement based on the driving record of the arrested person.

(6) The following time periods apply to hearings on suspensions issued under ORS 813.460:

(a) The Hearings Case Management Unit must receive the hearing request within 15 days of the mailing date of the suspension notice; and

(b) The Hearings Unit shall hold the hearing and issue a final order before the suspension becomes effective.

Stat. Auth.: ORS 184.616

Stats. Implemented: ORS 813.410, ORS 813.460 & OL 1995, Ch. 676

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

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 & ORS 184.619

Stats. Implemented: ORS 802.200, ORS 813.230, ORS 813.430 & ORS 813.520
Hist.: DMV 10-1997, f. & cert. ef. 10-16-97

735-070-0080

Ignition Interlock Device (IID) as Requirement for DUII Reinstatement, Exemptions

(1) A person convicted by an Oregon Court of Driving Under the Influence of Intoxicants (DUII) must install, use and maintain an IID during the six months following the ending date of a suspension for driving privileges for the DUII conviction.

(2) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will suspend driving privileges 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 completed and signed by the installer or other designee of the IID manufacturer who installed the device.

(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 installer that the installer 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, 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 six-month suspension period for failure to install an IID, DMV grants the person a medical exemption.

(6) A person whose driving privileges are suspended for failure to install an IID may be eligible for a hardship permit.

Stat. Auth.: ORS 184.616 & ORS 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

735-070-0085

DUII Treatment Completion Certificate Requirement for Reinstatement

(1) Any person arrested for Driving Under the Influence of Intoxicants (DUII) on and after January 1, 1988, thereafter convicted in an Oregon court, and whose driving privilege is subsequently suspended for DUII, must submit a completed DUII Treatment Completion Certificate, DMV Form 735-6821, to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) before DMV shall fully reinstate the person's driving privileges.

(2) The form shall be completed by a representative of an Oregon DUII treatment program approved by the Oregon Office of Alcohol and Drug Abuse Programs or an out-of-state DUII treatment provider.

Stat. Auth.: ORS 184.616 & ORS 809.380

Stats. Implemented: ORS 809.380 & ORS 813.020

Hist.: DMV 5-1994, f. & cert. ef. 7-21-94

735-070-0090

Violation of License Restriction

(1) The Driver and Motor Vehicle Services Branch 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, ORS 809.410 & ORS 809.480

Stats. Implemented: ORS 807.120, ORS 809.410 & ORS 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 applies to hearing requests under the Administrative Procedures Act regarding suspension, revocation and cancellation of driving privileges and identification cards, and non-issuance of driver licenses and identification cards. This rule does not apply to:

(a) Requests for Implied Consent hearings under ORS 813.410;

(b) Requests for Implied Consent hearings on suspensions under ORS 813.460;

(c) Requests for Implied Consent hearings on suspensions for refusing a urine test under Oregon Laws 1995, chapter 676;

(d) Requests for administrative reviews under ORS 809.440(2); and

(e) Requests for post-imposition hearings under ORS 809.440(4).

(2) In order to be valid, hearing requests:

(a) Shall be timely, as provided by sections (5) and (6) of this rule;

(b) Shall be in writing. This includes letters, telegrams and facsimile transmissions; and

(c) Shall include the person's full name.

(3) Hearing requests:

(a) Should include the person's address, driver license or customer number;

(b) Should substantially state the person is contesting an action;

(c) Should include the action being contested and the effective date of the action;

(d) Should include the person's date of birth; and

(e) Should include a telephone number where the person can be reached between 8 a.m. and 5 p.m., Monday through Friday.

(4) The person shall list each action separately that the person is contesting.

(5) In order for a request to be timely, the request must be postmarked or received at the Hearings Case Management Unit within 20 days of the date of the notice. If there is no postmark date or a postmark date cannot be determined, the request must be received at the Hearings Case Management Unit within 20 days of the date of the notice.

(6) The 20-day time limit shall be computed by excluding the date of the notice and including the 20th day:

(a) If timeliness is determined by postmark date and the 20th day falls upon any legal holiday or Sunday, the 20th day shall be the next working day; and

(b) If timeliness is determined by the date the request is received at the Hearings Case Management Unit and the 20th day falls upon any legal holiday, Saturday or Sunday, the 20th day shall be the next working day.

(7) If the request is not timely under sections (5) and (6) of this rule, the person shall have waived the right to a hearing under ORS Chapter 183, except as provided in OAR 137-003-0075(4).

(8) The Hearings Program shall issue a final order denying a hearing if the request is not valid under section (2) of this rule and if it does not substantially comply with section (3) of this rule.

Stat. Auth.: ORS 183.415, 184.616 & 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

735-070-0130

Definitions

The following definitions apply to issuance of an immediate suspension order and hearings under ORS 809.410(15) and OAR 735-070-0140 and 735-070-0150:

(1) "Incompetence" means driving in a manner that indicates lack of ability or fitness to safely operate a motor vehicle.

(2) "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."

(3) "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."

(4) "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.

Stat. Auth.: ORS 184.616 & ORS 809.410(15)

Stats. Implemented: ORS 809.410(15)

Hist.: MV 13-1989, f. & cert. ef. 3-20-89; DMV 6-1997, f. & cert. ef. 7-15-97; Administrative Correction 8-12-97

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 shall be considered as application for restoration of driving privileges.

(2) To comply with reinstatement requirements, the person shall:

(a) Meet all requirements to apply 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) In lieu of subsection (2)(b) of this rule, a person residing out-of-state may 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. When test results from another jurisdiction are received by Oregon DMV and subsections (2)(a) and (c) of this rule have been met, only the person's driving privilege shall be reinstated. No Oregon original driver license or instruction driver permit issuance fee shall be required and no Oregon driver license or instruction driver permit shall be issued.

(4) The revocation shall 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, ORS 184.619 & ORS 809.660

Stats. Implemented: ORS 809.390, ORS 809.650 & ORS 809.660

Hist.: MV 7-1993, f. & cert. ef. 10-21-93; DMV 11-1997, f. & cert. ef. 10-16-97

735-070-0170

Serious Accidents — Civil Penalty Schedule for Violation of an Out-of-Service Order or Notice

(1) The Driver and Motor Vehicle Services Branch (DMV) of the Department of Transportation shall impose the civil penalty required by Section 4, Chapter 400, Oregon Laws 1993, on the operation of the commercial motor vehicle in accordance with the following schedule:

(a) \$1,000 for the first notice indicating the person has violated an out-of-service agreement; and

(b) \$2,000 for the second or subsequent notice indicating the person has violated an out-of-service agreement.

(2) The person incurring the civil penalty has a right to a contested case hearing in accordance with ORS 183.090. However, the amount of the civil penalty is not an issue at the hearing, and the hearing officer presiding at the contested case hearing shall not adjust the amount of the civil penalty.

Stat. Auth.: ORS 184.616 & Ch. 400, OL 1993

Stats. Implemented: ORS 813.052

Hist.: MV 13-1993, f. 10-22-93, cert. ef. 11-4-93

735-070-0180

Suspensions for Violations of Out-of-Service Orders

(1) For purposes of this rule, "notice" refers to a notice of violation of an out-of-service order.

(2) A person is subject to the appropriate suspension period outlined in ORS 809.410(32), (33), (34) or (35) for any notice the Driver and Motor Vehicles Services Division of the Department of Transportation (DMV) receives on or after October 16, 1997, regardless of the offense or conviction date.

(3) DMV shall suspend commercial driving privileges under ORS 809.410(35) upon receipt of a second or subsequent notice within a 10-year period that indicates the person violated an out-of-service order and was transporting hazardous material or operating a motor vehicle designed to transport 16 or more persons, regardless of the load or kind of vehicle involved in the first notice. This applies even if DMV received the first notice before October 16, 1997.

(4) DMV shall suspend commercial driving privileges under ORS 809.410(33) upon receipt of a second or subsequent notice within a 10-year period that indicates the person violated an out-of-service order but was not transporting hazardous material or was not operating a motor vehicle designed to transport 16 or more persons, regardless of the load or kind of vehicle involved in the first notice. This applies even if DMV received the first notice before October 16, 1997.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats. Implemented: ORS 809.410(32) - ORS 809.410(35)

Hist.: DMV 9-1997, f. & cert. ef. 10-16-97; DMV 1-1999, f. & cert. ef. 2-19-99

735-070-0185

Report of Positive Drug Test Result from Medical Review Officer

(1) The report submitted by a medical review officer under ORS 825.410 must include a Certificate of Medical Review Officer (DMV form 735-7200) and a Certificate of Motor Carrier (DMV form 735-7201) and a legible photocopy of the fourth copy of Part 40 Appendix A subtitled COPY 4 of the Federal Custody and Control Form.

(2) The Department of Transportation will not send notice as required by ORS 825.412 until a report as described in section (1) of this rule is received by the agency.

Stat. Auth.: ORS 184.616 & ORS 184.619

Stats Implemented: ORS 825.410 & ORS 825.412

Hist.: DMV 8-2001, f. & cert. ef. 3-7-01

735-070-0190

Hearing Request for Entry of Positive Drug Test Result on Employment Driving Record

When the Department of Transportation (ODOT) receives a report described in OAR 735-070-0185, ODOT 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.

(1) 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;
- (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);

(2) 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.

(3) Except for good cause shown:

(a) Any factual or legal defense not set forth in the hearing request is considered waived; and

(b) 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.

(4) If good cause is shown under section (3) of this rule, the hearing officer must give ODOT 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.

(5) In order for a request for hearing to be timely, the request must be postmarked or received by the Hearings Case Management Unit within 30 days of the date of notice. If there is no postmark date or a postmark date cannot be determined, the request for hearing must be received by the Hearings Case Management Unit within 30 days of the date of notice.

(6) "Received by the Hearings Case Management Unit" means:

- (a) Personally delivered to 1905 Lana Avenue NE, Salem, OR;
- (b) Delivered by mail to 1905 Lana Avenue NE, Salem OR 97314; or

(c) Transmitted by facsimile machine to telephone number (503) 945-5521 and received by the Hearings Case Management Unit.

(7) The 30-day time limit will be computed as set forth in OAR 137-003-0520.

(8) If the request is not timely under sections (5), (6) and (7) of this rule, the person will have waived the right to a hearing, and the test results will be posted to the person's employment driving record.

Stat. Auth.: ORS 184.616, ORS 814.619 & ORS 825.412

Stats. Implemented: ORS 825.410 & ORS 825.412

Hist.: DMV 11-2000(Temp), f. 9-21-00, cert. ef. 9-21-00 thru 3-19-01; DMV 8-2001, f. & cert. ef. 3-7-01

DIVISION 72

DRIVER IMPROVEMENT

Driver Improvement Program

735-072-0000

Application of the Driver Improvement Program

(1) All drivers granted driving privileges in this state are subject to the provisions of the Driver Improvement Program established by OAR 735-072-0010 through 735-072-0070, except as provided by OAR 735-072-0090.

(2) A person shall only become involved in the Driver Improvement Program or advanced in the program if at least one of the traffic offenses or preventable accidents entered to the person's driving record occurred within one year of the date the driving record is identified for review.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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

735-072-0010

Purpose of the Driver Improvement Program

OAR 735-072-0000 through 735-072-0070 establish the Driver Improvement Program (Program) as authorized by ORS 809.480. The Program consists of four steps (remedial actions) identified in OAR 735-072-0030, increasing in severity, aimed at improving the driver's record, by reducing traffic convictions and accidents.

Stat. Auth.: ORS 802.010 & ORS 809.480

Stats. Implemented: OR 809.480

Hist.: MV 24-1985, f. 12-31-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0305

735-072-0020

Driver Improvement Program Definitions

The following definitions apply to the Driver Improvement Program rules, OAR 735-072-0010 through 735-072-0070:

(1) "Advisory Letter" is a letter sent to a person to alert them of their driving problems and to inform them about the program.

(2) "Conviction" is as defined in ORS 802.540 and includes an unvacated forfeiture of bail.

(3) "DMV" means the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(4) "Driver Improvement Course" means any traffic safety, defensive driving, traffic violator, or similar program or course of instruction approved by DMV.

(5) "Driver improvement interview" is a face-to-face meeting with a counselor to explain the program, to discuss the person's driving record and remedies to the driving problems, and to determine required action for improvement.

(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) "Probation" means the one-year period, beginning upon completion of the driver improvement interview.

(9) "Program" means the Driver Improvement Program.

(10) "Traffic Offenses" include those listed in OAR 735-064-0220.

(11) "Warning Letter" is a letter sent to a person to warn them what can happen if convicted of more traffic offenses or involved in more preventable accidents.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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

735-072-0030

Steps in the Driver Improvement Program

(1) Step One: An advisory letter may be mailed when:

(a) A person is convicted of two traffic offenses occurring within a 12-month period;

(b) A person is involved in two preventable accidents occurring within a 12-month period; or

(c) A person is convicted of one traffic offense and is involved in one preventable accident both occurring within a 12-month period.

(2) Step Two: A warning letter may be mailed when:

(a) A person is convicted of one traffic offense or is involved in one preventable accident occurring within six months from the date of the advisory letter;

(b) A person is convicted of two traffic offenses or is involved in two preventable accidents or a combination of the two occurring within 12 months from the date of the advisory letter; or

(c) A person is convicted of three traffic offenses or is involved in three preventable accidents or a combination of the two occurring within an 18-month period, regardless of whether an advisory letter has been sent.

(3) Step Three: A driver improvement interview may be held by the DMV when:

(a) A person is convicted of either one traffic offense or is involved in one preventable accident occurring within six months from the date of the warning letter;

(b) A person is convicted of two traffic offenses or is involved in two preventable accidents or a combination of the two occurring within 12 months from the date of the warning letter; or

(c) A person is convicted of four or more traffic offenses or is involved in four preventable accidents or a combination of these occurring within any 18-month period, whether an advisory or warning letter has been sent.

(4) DMV may elect not to interview a person whose driving privilege is suspended, revoked or canceled. The interview may take place after the person clears the open actions and becomes eligible for reinstatement. An interview shall only take place if entries on the person's driving record indicate the person has continued to drive.

(5) Step Four: A notice of suspension under ORS 809.480 shall be sent when any one of the following occurs:

(a) A person is convicted of any traffic offense or is involved in any preventable accident occurring during the one-year probation period, even if the conviction or accident report is received after the end of the probationary period. There shall be a 30-day suspension for each accident or conviction;

(b) A person fails to attend the driver improvement interview. The suspension shall remain in effect until:

(A) The interview is held; or

(B) The suspension has been in effect for at least one year and the person's driving record shows no entries indicating the driver has continued to drive within the last year.

(c) A person fails to complete any requirement imposed by the counselor at the driver improvement interview. The suspension shall remain in effect until the requirement is completed, not to exceed five years.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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 735-031-0315; MV 24-1991, f. & cert. ef. 10-31-91; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0040

At the Driver Improvement Interview

(1) When a person is required to attend a driver improvement interview, the DMV driver improvement counselor shall place the person on probation for one year. The counselor may also take one or more of the actions specified in sections (2) through (5) of this rule.

(2) The counselor may place restrictions of times, days and routes on the person's license when the counselor determines the person's driving problems occur at a certain time of day or place. The person shall obtain the restricted license within thirty (30) days of the date of the interview.

(3) The counselor may require the person to attend and complete a driver improvement course under the direction of DMV or a DMV-approved organization. The person must complete the course and notify DMV of such completion within ninety (90) days from the date appearing on the notice directing the person to take the course. The following criteria shall be used by the counselor for referral:

(a) National Safety Council's Defensive Driving Course (DDC):

(A) Drivers whose records indicate stop light or stop sign convictions;

(B) Driver over 21;

(C) Drivers who have not taken the course within the past 18 months and fall into one of the above categories;

(D) Drivers who do not fall into one of the above categories, but have taken National Traffic Safety Institute Level I within the last 18 months; and

(E) Drivers with accidents on their driving record within the last year.

(b) National Traffic Safety Institute (NTSI) Level I:

(A) Drivers who have convictions for violation of the basic rule or other speed-related offenses;

(B) Particularly young drivers, ages 16-20;

(C) Drivers who have not taken NTSI I within the past 18 months, but fall into one of the above categories; and

(D) Drivers who do not fall within the above categories, but have taken DDC within the past 18 months.

(c) National Traffic Safety Institute (NTSI) Level II: Drivers whose records indicate poor driving behavior, and at the interview, express an unwillingness to change poor driving habits, sarcasm, and lack of concern for others' safety and traffic laws;

(d) Team Oregon Motorcycle Safety Program Basic Motorcycle Rider Course (MRC): Drivers who have not completed formal train-

ing on how to ride a motorcycle within the past eighteen months and who indicate in the interview their citations occurred while riding a motorcycle;

(e) Team Oregon Motorcycle Safety Program Experienced Rider Course (ERC):

(A) Motorcycle riders who have been riding a motorcycle for at least one year;

(B) Motorcycle riders with current access to a motorcycle who have a current motorcycle endorsement;

(C) Motorcycle riders who have completed a formal training program on how to ride a motorcycle within the past 18 months; and

(D) Motorcycle riders who indicate in the interview that their citations occurred while riding a motorcycle.

(4) The counselor may require the person to complete and pass DMV's driver license examination within sixty (60) days from the date of the notice directing the person to complete the examination and to notify the Driver Improvement Program of the completion. The counselor shall refer the person for a re-examination when the person's driving record indicates lack of knowledge of traffic laws or poor driving skills.

(5) The counselor may refer the person to a social services agency for further counseling in cases where personal problems such as alcoholism, marital, financial, or work-related problems have contributed to the person's driving problems. The person shall contact the referral agency and notify the Driver Improvement Program of such contact by returning the agency-signed referral form within 30 days from the date of the interview.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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 735-031-0320; MV 23-1991, f. & cert. ef. 10-16-91; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0050

Rights to a Hearing or Administrative Review

Hearing and administrative review procedures for suspensions under OAR 735-072-0030 are as established by ORS 809.440(1), (2) and (5).

Stat. Auth.: ORS 802.010, ORS 809.480 & Ch. 702, OL 1991

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

735-072-0060

Exemptions from Driver Improvement Program Requirements

(1) DMV may excuse a person from completing a requirement of the program when the person provides DMV satisfactory evidence, in writing, when one of the following applies:

(a) Out-of-state military service (longer than four months);

(b) Out-of-state residency (longer than twelve months);

(c) Out-of-state for school or business (longer than four months);

(d) Serious or lengthy injury, or illness (longer than four months); or

(e) Incarceration (longer than four months).

(2) A person shall be placed on probation as explained in OAR 735-072-0040(1) when the person is excused from a requirement of the program.

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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 735-031-0330; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0070

Person No Longer Subject to Driver Improvement Program

A person is no longer involved in the Driver Improvement Program when the one-year probation period ends, except as provided in OAR 735-072-0030(5)(a) or (c).

Stat. Auth.: ORS 184.616, ORS 802.200 & ORS 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 735-031-0335; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0090

Application of Provisional License Driver Improvement Program

The following drivers are subject to the requirements of OAR 735-072-0090 through 735-072-0160:

(1) All drivers, under the age of eighteen (18), granted an original provisional license or permit, who are cited and subsequently convicted of such offenses listed in ORS 809.600(2)(b) or (4) after issuance of their original provisional license or permit.

(2) All unlicensed drivers, under the age of eighteen (18), who are cited and subsequently convicted of such offenses listed in ORS 809.600(2)(b) or (4).

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0100

Purpose of the Provisional License Driver Improvement Program

OAR 735-072-0090 through 735-072-0160 establish the Provisional License Driver Improvement Program as authorized by Oregon Laws 1989, Chapter 715. The program consists of three steps (remedial actions) identified in OAR 735-072-0120, aimed at reducing traffic convictions and accidents among drivers under the age of eighteen.

Stat. Auth.: ORS 802.010, ORS 809.480 & Ch. 715, OL 1989

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89

735-072-0110

Provisional License Driver Improvement Program Definitions

The following definitions apply to the Provisional License Driver Improvement Programs rules, OAR 735-072-0100 through 735-072-0160:

(1) "Adequately Reformed" means a person has satisfactorily completed the remedial actions required by a driver improvement counselor under OAR 735-072-0130.

(2) "Conviction" is as defined in ORS 802.540 and includes an unvacated forfeiture of bail.

(3) "DMV" means the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(4) "Driver Improvement Course" means any traffic safety, defensive driving, traffic violator, or similar program or course of instruction approved by DMV.

(5) "Driver Improvement Interview" is a face-to-face meeting between a DMV driver improvement counselor and driver to explain the program, to discuss the person's driving record and remedies to the driving problems, and to determine required action for improvement.

(6) "License" has the meaning specified in ORS 801.245.

(7) "Permit" has the meaning specified in ORS 801.250.

(8) "Program" means the Provisional License Driver Improvement Program.

(9) "Provisional Driving Record Suspension" is issued when a person is suspended under ORS 809.410(28) for three or more convictions for offenses under ORS 809.600(2)(b) or (4).

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0120

Steps in the Provisional License Driver Improvement Program

(1) The steps in the program are as follows:

(a) Step One: A warning letter shall be sent when a person is convicted of one traffic offense described in ORS 809.600(2)(b) or (4). OAR 735-064-0220 lists the names for offenses listed in ORS 809.600(2) or (4);

(b) Step Two: A driver improvement interview shall be held by the DMV when a person is convicted of such a traffic offense described in ORS 809.600(2) or (4) and the person has been previously convicted of such a traffic offense. A notice of suspension shall be sent if a person fails to complete any requirement imposed by the

counselor at the interview or fails to attend the interview. The suspension shall remain in effect until the interview is held, or any requirements are satisfactorily completed or for five years, whichever occurs first. On and after the person's eighteenth birthday, the person shall be considered ineligible under ORS 807.060(17) for any grant of driving privileges until the interview is held, any requirements are satisfactorily completed or for five years from the beginning date of the suspension, whichever occurs first;

(c) Step Three: A provisional driving record suspension notice shall be sent when a person is convicted of a traffic offense described in ORS 809.600(2)(b) or (4) and the person has twice previously been convicted of such a traffic offense. When a driver improvement interview has been held a driver improvement counselor shall review each case (driving record, interview results form and any other relevant information) to determine which of the remedial action(s) listed in OAR 735-072-0130 are necessary to adequately reform the driver. If the person is advanced to step three of the program and an interview has not been conducted, the remedial action required for reinstatement at step three will be that a driver improvement interview is scheduled and held. A suspension notice shall be sent to the person indicating the remedial action(s) that must be completed prior to reinstatement. The suspension shall remain in effect until the remedial action is successfully completed or for five years, whichever occurs first. On and after the person's eighteenth birthday, the person will be considered ineligible under ORS 807.060(17) for any grant of driving privileges until the remedial action is successfully completed or for five years from the beginning date of the suspension, whichever occurs first. Reinstatement of driving privileges can occur before the person's eighteenth birthday upon successful completion of the remedial action(s);

(d) When a person is convicted of such a traffic offense described in ORS 809.600(2) and (4) and the person has previously been convicted of three or more such traffic offenses, DMV shall determine that the person cannot be adequately reformed. Therefore, DMV shall skip any steps in the program not previously applied and shall not allow completion of any remedial action to qualify the person to apply for reinstatement of driving privileges prior to the person's eighteenth birthday; and

(e) For purposes of calculating previous convictions of such traffic offenses under subsections (1)(b), (c), and (d) of this rule, prior convictions occurring on the same date shall each be counted as a separate conviction.

(2) In addition to steps being skipped in subsection (1)(d) of this rule, steps shall be skipped in the program as follows:

(a) Step one shall be skipped if the person is convicted of such a traffic offense and DMV has received previous convictions which advance the person in the program before the warning letter can be mailed; and

(b) Step two shall be skipped if the person is convicted of such a traffic offense and DMV has received previous convictions which advance the person in the program before the interview can be scheduled.

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; MV 23-1991, f. & cert. ef. 10-16-91;

DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0130

At the Provisional License Driver Improvement Interview

When a person is required to attend a provisional license driver improvement interview, the DMV driver improvement counselor shall take one or more of the remedial actions specified in sections (2) through (5) of this rule.

(1) Place restrictions of times, days and routes on the person's license if the counselor determines the person's driving problems occur at a certain time of day or place. The person shall obtain the restricted license within 30 days of the date of the interview.

(2) Place restrictions on the number of passengers and the ages of passengers allowed in the person's vehicle if the counselor determines the person's driving problems may be a result of distractions or interactions with passengers. The person shall obtain the restricted license within 30 days of the date of the interview.

(3) Require the person to attend and complete a driver improvement course. The person must complete the course and notify DMV of such completion within 90 days from the date appearing on the notice directing the person to take the course. The following criteria shall be used by the counselor for referral:

(a) National Safety Council's Defensive Driving Course (DDC):

(A) Drivers whose records contain stop light or stop sign convictions;

(B) Drivers who have not taken the course within the past 18 months;

(C) Drivers who do not fall into one of the above categories, but who have taken National Traffic Safety Institute Level I within the last 18 months; and

(D) Drivers with accidents on their driving record within the last year.

(b) National Traffic Safety Institute (NTSI) Level I:

(A) Drivers whose records contain convictions for violation of the basic rule or other speed-related offenses;

(B) Drivers who have not taken NTSI I within the past 18 months; and

(C) Drivers who do not fall within the above categories, but who have taken DDC within the past 18 months.

(c) National Traffic Safety Institute (NTSI) Level II: Drivers whose records indicate poor driving behavior and who at the interview, express an unwillingness to change poor driving habits, sarcasm or a lack of concern for others' safety and traffic laws;

(d) Team Oregon Motorcycle Safety Program Basic Motorcycle Rider Course (MRC): Drivers who are 16 years of age or older, who have not completed formal training on how to ride a motorcycle within the past eighteen months, and who indicate at the interview that at least one of their citations or accidents occurred while riding a motorcycle;

(e) Team Oregon Motorcycle Safety Program Experienced Rider Course (ERC):

(A) Motorcycle riders who have been riding a motorcycle for at least one year;

(B) Motorcycle riders with current access to a motorcycle who have a current motorcycle endorsement;

(C) Motorcycle riders who have completed a formal training program on how to ride a motorcycle within the past eighteen (18) months; and

(D) Motorcycle riders who indicate in the interview that at least one of their citations or accidents occurred while riding a motorcycle.

(4) Require the person to complete and pass DMV's driver license examination within sixty (60) days from the date of the notice directing the person to complete the examination and to notify the Driver Improvement Program of the completion. DMV shall require an examination when the person's driving record indicates lack of knowledge of traffic laws, poor driving skills or the person does not have a valid license or permit issued in Oregon.

(5) Refer the person to a social services agency for further counseling in cases where personal problems such as alcoholism, marital, financial, or work-related problems have contributed to the person's driving problems. The person shall contact the referral agency and notify the Driver Improvement Program of such contact by returning the agency-signed referral form within thirty (30) days from the date of the interview.

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; MV 23-1991, f. & cert. ef. 10-16-91;

DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0140

Rights to an Administrative Review

Administrative review procedures for suspensions under ORS 809.405 are administrative reviews as established by ORS 809.440(2) and (5).

Stat. Auth.: ORS 802.010, ORS 809.405, ORS 809.480 & Ch. 702, OL 1991

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; MV 19-1991, f. & cert. ef. 9-18-91

735-072-0150

Exemptions from Provisional License Driver Improvement Program Requirements

(1) DMV may excuse a person from completing a requirement of the program when the person provides DMV with satisfactory evidence, in writing, when one of the following applies:

- (a) Out-of-state military service (longer than four months);
- (b) Out-of-state residency (longer than twelve months);
- (c) Out-of-state for school or business (longer than four months);
- (d) Serious or lengthy injury or illness (longer than four months);

or

- (e) Incarceration (longer than four months).

(2) When a person is excused from a requirement of the program, the person's driving record shall continue to be monitored as though the requirement was completed.

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

735-072-0160

Persons No Longer Subject to Provisional License Driver Improvement Program

When the person becomes 18 years of age, the person is no longer involved in the Provisional License Driver Improvement Program except as provided in OAR 735-072-0120(1)(b) and (c). At 18 years of age the person shall be subject to the Driver Improvement Program, established under OAR 735-072-0000 through 735-072-0070.

Stat. Auth.: ORS 184.616 & ORS 809.480

Stats. Implemented: ORS 807.060, ORS 809.405 & ORS 809.480

Hist.: MV 36-1989, f. & cert. ef. 10-3-89; DMV 10-1994, f. 9-30-94, cert. ef. 10-1-94

DIVISION 74

MEDICAL CERTIFICATION PROGRAM

735-074-0000

Purpose of the Drivers Medical Certification Program

The purpose of the Drivers Medical Certification Program is to establish criteria to allow drivers with mental or physical conditions to hold a driver license, driver permit, or endorsement, if they remain qualified and if they can safely operate a motor vehicle.

Stat. Auth.: ORS 802.010, ORS 807.060, ORS 807.090, ORS 807.270, ORS 807.340, ORS 807.710, ORS 809.410 & Ch. 224, OL 1989

Stats. Implemented: ORS 807.090

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0400; MV 37-1989, f. & cert. ef. 10-3-89

735-074-0010

When a Certificate of Eligibility Is Required

(1) A person shall be required to obtain a Certificate of Eligibility under ORS 807.090(1)(b) if:

(a) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) receives a signed letter, memo or report, including reports under ORS 807.710, that indicates a person has, or may have, a mental or physical condition;

(b) The Health Division, Mental Health and Developmental Disability Services Division, a court or a licensed physician, nurse practitioner or physician assistant recommends a medical examination; or

(c) A person indicates a mental or physical condition on an application for a driver license, driver permit or endorsement.

(2) All written documentation pertaining to a person's ability or qualifications to drive due to any mental or physical condition shall be kept confidential and not released to any person unless:

(a) The Attorney General directs the agency pursuant to the Public Records Law to disclose the source; or

(b) Confidentiality is not requested.

(3) DMV shall attempt to investigate any questionable letters, reports or memos in an attempt to determine their validity prior to requesting a person to complete a Certificate of Eligibility.

Stat. Auth.: ORS 184.616, ORS 807.060, ORS 807.090, ORS 807.270, ORS 807.340, ORS 807.710, ORS 809.410 & Ch. 309, OL 1993

Stats. Implemented: ORS 807.090

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

735-074-0020

When a Suspension of Driving Privilege Occurs

(1) When the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) determines a medical Certificate of Eligibility is required, DMV shall send the person a letter requesting the certificate.

(2) If a person does not obtain a medical Certificate of Eligibility within 60 days of the date of DMV's letter, DMV shall suspend the person's driving privilege under ORS 809.410(14) for failure to obtain a medical clearance. DMV may grant an extension (not to exceed four months) if the person is seriously ill or injured. The person's physician, nurse practitioner or physician assistant must recommend an extension in writing. DMV may grant a 30 day extension to a person who is out of state if a written request is received from the person.

(3) A person's driving privilege shall be immediately suspended if:

(a) Recommended by the Deputy Assistant Director for Health;

(b) Recommended by a licensed physician, nurse practitioner or physician assistant; or

(c) Based upon information included in an accident report or other law enforcement report, DMV has reason to believe that a person may endanger people or property due to the possibility of a sudden loss of consciousness or control.

(4) After DMV has suspended a person under ORS 809.410(14) or (16)(a)(b), DMV shall reinstate driving privileges upon receipt of a Certificate of Eligibility which includes a favorable medical recommendation from the Deputy Assistant Director for Health.

Stat. Auth.: ORS 184.616, ORS 807.060, ORS 807.090, ORS 807.270, ORS 807.340, ORS 807.710, ORS 809.410 & Ch. 309, OL 1993

Stats. Implemented: ORS 807.090

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

735-074-0030

When a Person Is No Longer Required to Obtain a Certificate of Eligibility

(1) A person is no longer required to obtain a Certificate of Eligibility when:

(a) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) receives a Certificate of Eligibility from the State Health Officer recommending the person be dropped from the Driver Medical Certification Program;

(b) DMV receives and approves a signed statement from the person certifying the person does not have the medical condition previously indicated on an application for a driver license, driver permit, or endorsement because the person marked the form incorrectly; or

(c) The person is required to reestablish medical eligibility at regular intervals, and the person is issued a driver license by another jurisdiction. However, a certificate of eligibility must be obtained if the person renews or is reissued an Oregon driver license or driver permit.

(2) Proof that the person has been issued a driver license by another jurisdiction includes, but is not limited to:

(a) Electronic, telephonic or written verification from a jurisdiction's driver licensing agency that the person has been issued a driver license by that jurisdiction; or

(b) A photocopy of a valid out-of-state driver license.

(3) Subsection (1)(c) of this rule is not applicable if the person's driving privileges are suspended for failing to obtain required medical clearance. The person must submit to DMV the required medical clearance and reinstate driving privileges in Oregon before subsection (1)(c) of this rule applies.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 807.090

Stats. Implemented: ORS 807.060, ORS 807.090, ORS 807.340 & ORS 809.410

Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0420; MV 11-1990, f. & cert. ef. 7-2-90; DMV 3-2001, f. & cert. ef. 2-16-01

735-074-0040

Hearing and Administrative Review Provisions

Hearing and administrative review procedures for suspensions under OAR 735-074-0020 are found in ORS 809.440(1), (2), (4) and (5).

Stat. Auth.: ORS 802.010, ORS 807.060, ORS 807.090, ORS 807.270, ORS 807.340, ORS 807.710, ORS 809.410, ORS 809.480 & Ch. 702, OL 1991
 Stats. Implemented: ORS 807.090
 Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0430; MV 19-1991, f. & cert. ef. 9-18-91

DIVISION 76

DRIVER RE-EXAMINATION PROGRAM

735-076-0000

Purpose of the Driver Re-Examination Program

To provide procedures for retesting of drivers who may no longer be qualified to hold a license and safely operate a motor vehicle.

Stat. Auth.: ORS 807.340 & ORS 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 735-031-0440

735-076-0010

When Re-Examination is Required

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall request that a driver be re-examined when DMV has reason to believe that a driver may not be qualified to hold a driver license, driver permit, or endorsement, or may no longer be able to drive safely.

(2) DMV has reason to believe an examination is necessary when:

(a) DMV receives a report, letter, or memo from a police officer or physician that indicates a driver may not be qualified or may not be able to drive safely;

(b) DMV's driving record contains traffic violations listed in ORS 809.600(1)(a), (2)(b), and (4)(a) that indicate a driver may not be qualified or may no longer be able to drive safely;

(c) A court or the State Health Division recommends an examination; or

(d) A signed request is received from a member of the public that indicates a driver may not be qualified or may no longer be able to drive safely.

(3) All requests for re-examination shall be considered confidential, except requests submitted by persons who submit re-examination requests as part of their occupation.

(4) DMV shall attempt to investigate any questionable re-examination requests in an attempt to determine their validity prior to requesting a re-examination.

Stat. Auth.: ORS 807.340 & ORS 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 735-031-0450

735-076-0020

DMV Notice for Reexamination

(1) When the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) determines a driver may not be qualified to hold a driver license, driver permit, or endorsement or may no longer be able to drive safely, DMV will send a letter to the driver requiring the driver to either appear for driver tests or to meet with a DMV representative.

(2) If the driver fails to successfully complete required tests within two months of the date of the request letter, DMV will suspend the person's driving privilege.

(3) DMV will suspend a person's right to apply for driving privileges when a person voluntarily surrenders a license to DMV based upon the person's recognition that the person is no longer competent to drive and the person has failed to take or pass required examinations.

(4) DMV may grant an extension to the two months, not to exceed four additional months, 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.

Stat. Auth.: ORS 802.010, ORS 807.340, ORS 807.400(13) & ORS 809.410(13)
 Stats. Implemented: ORS 807.340
 Hist.: MV 19-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0460; MV 17-1992, f. 12-16-92, cert. ef. 1-1-93; DMV 16-2001, f. & cert. ef. 9-21-01

735-076-0030

Driver Tests Required

Re-examination tests may include one or more of the following:

- (1) A knowledge test for the class of license held;
- (2) A road sign recognition test;
- (3) A vision test;
- (4) A drive test for the class of license held including motorcycle endorsement; or

(5) Any other examination or test the Driver and Motor Vehicle Services Branch of the Department of Transportation (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 807.340 & ORS 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 735-031-0470

735-076-0040

Number of Tests that May Be Taken

(1) A person may take no more than a total of five knowledge and five behind-the-wheel tests during any 12-month period. The driver shall re-test in the driver's current license class, unless the driver voluntarily chooses to test for a lower class of license.

(2) No additional tests will be permitted until one year from the date of the fifth test.

(3) Before the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) may conduct a behind-the-wheel test, the person must successfully complete all other required tests.

(4) The waiting periods between knowledge or behind-the-wheel tests shall be the same as under OAR 735-062-0040 and 735-062-0070, respectively.

(5) The Supervisor of the Driver Safety Case Management Unit may refuse to authorize further behind-the-wheel tests if during or after the test, the examiner believes that continued testing may unnecessarily endanger persons or property, and so advises DMV's Driver Safety Case Management Unit in writing with an account of the events causing this decision.

Stat. Auth.: ORS 807.340 & ORS 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 735-031-0480

735-076-0050

Authorization Required for Further Testing

(1) If a driver fails the behind-the-wheel test three times, a driver must obtain written authorization from the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV), Driver Safety Case Management Unit or DMV management before further tests may be conducted. DMV may authorize a fourth or fifth behind-the-wheel test upon receiving a letter from a driving instructor that indicates the driver has corrected errors noted on previous behind-the-wheel tests.

(2) If DMV suspends a person's driving privilege for failure to appear for tests or failure to pass tests, DMV shall not reinstate the driving privilege until the driver passes all required tests and pays any required fees.

(3) A driver suspended for failure to pass tests may be issued a 30-day temporary restricted license permitting the driver to drive while accompanied by a licensed commercial driving instructor or other licensed driver approved by DMV for the purpose of providing driving instructions.

Stat. Auth.: ORS 807.340 & ORS 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 735-031-0490

735-076-0060

Hearing Provisions

(1) The re-examination rule does not limit any statutory rights to a hearing under ORS 809.440.

(2) Suspensions for failure to pass tests are based solely on the results of tests. Under OAR 137-003-0000(2), a person is not entitled to a hearing when a suspension is based solely on a test.

Stat. Auth.: ORS 807.340 & ORS 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

DIVISION 80

PARKING

735-080-0000

Procedures for Issuance of Parking Permits for Winter Recreation Parking Areas

The Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation, pursuant to ORS 802.010, 802.600, 811.595, 811.600 and 810.170 hereby adopts the following procedures relating to issuance of Winter Recreation Parking Permits (Sno-Park Permits) for certain vehicles in winter recreation parking areas:

(1) There will be three separate permits of different colors: An annual Sno-Park permit, a three-day Sno-Park permit and a daily Sno-Park permit.

(2) The annual Sno-Park permit is valid for one year, but must be used only from November 15th through April 30th.

(3) The three-day Sno-Park permit is valid for three consecutive days (e.g., if a three-day Sno-Park permit is purchased for use on Monday, it expires at midnight on Wednesday).

(4) A daily Sno-Park permit is valid for one day and expires at midnight on the day for which it is purchased.

(5) A Sno-Park permit must be displayed near the lower left-hand corner of the windshield of the vehicle.

(6) A Sno-Park permit will be issued to any person upon request and payment of the applicable fees. It can be transferred from vehicle to vehicle.

(7) 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.

(8) Sno-Park permit fees set by the Oregon Transportation Commission are established in OAR 734-020-0070.

(9) DMV will maintain revenue and statistical records of the number and type of Sno-Park permits issued. Computer records will not indicate date of issuance or to whom a permit is issued.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.600, ORS 811.595 & ORS 811.600

Stats. Implemented: ORS 802.600, ORS 810.170, ORS 811.590 & ORS 811.595

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

735-080-0010

Definitions Relating to Disabled Person Parking Permits

The following definitions apply to OAR 735-080-0010 through 735-080-0080:

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

(2) "Disabled person" means a disabled person as defined in ORS 801.235.

(3) "Authorized program" means an organization or adult foster care home recognized by a city, county or the state, that operates at least one vehicle regularly for the transportation of disabled persons or for an adult foster care home.

(4) "Disabled person parking permit" means a renewable or temporary permit issued by DMV that gives special parking privileges as provided in ORS 811.635 or 811.637.

(5) "Temporary disabled person parking permit" means a permit issued to a temporarily disabled person under ORS 811.606 by DMV that gives special parking privileges as provided in ORS 811.635.

(6) "Renewable disabled person parking permit" means a permit issued by DMV to a person whose condition is expected to continue for a period of at least four years, or a permit issued to an authorized program or family.

(7) "Disabled person parking decal" means a decal issued by DMV for use on a motorcycle, golf cart or similar vehicle that gives special parking privileges as provided in ORS 811.635.

(8) "Authorized family" means a family residing in Oregon with more than one disabled person residing within the same household.

(9) "Physician" means a person who holds a degree of Doctor of medicine, osteopathy, podiatry, chiropractic or naturopathy, and is licensed pursuant to Oregon law.

(10) "Certified physician assistant" means a person who is registered as a physician assistant pursuant to ORS 677.505 to 677.525 and is in compliance with all administrative rules and regulations of the Oregon Board of Medical Examiners.

(11) "Certified nurse practitioner" means a registered nurse who has been certified by the Oregon State Board of Nursing as qualified to practice in an expanded specialty role within the practice of nursing.

(12) "Licensed optometrist" means a person licensed by the Oregon Board of Optometry pursuant to ORS 683.020 to measure and diagnose visual acuity of the human eye and treat vision defects by means of prescription and adaptation of lenses to preserve or restore maximum range of vision.

(13) "Certificate" means a statement signed by a licensed physician, certified physician assistant, certified nurse practitioner or licensed optometrist on an application for a disabled person parking permit that certifies the applicant is either a temporarily disabled person or a disabled person whose condition is expected to continue for a period of at least four years.

(14) "Expiration date" means:

(a) For a renewable disabled person parking permit, the date the person's driver license, identification card, disabled parking identification card or golf cart driver permit will expire;

(b) For a temporary disabled person parking permit, the date a licensed physician, certified physician assistant or certified nurse practitioner certifies to be the date a temporarily disabled person will no longer need a temporary disabled person parking permit, but not to exceed six months;

(c) Eight years from the date a placard is issued to an authorized program;

(d) Eight years from the date a placard is issued to an authorized family.

(15) "Disabled parking identification card" means an identification card issued by DMV to a disabled person, in conjunction with a disabled person parking permit, that contains the person's name, address and other identifying information, but does not contain a photograph of the disabled person.

(16) "Temporary duplicate permit" means a permit valid for 30 days that is issued to a person who needs a duplicate disabled person parking permit for travel purposes only.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 811.602, ORS 811.603, 811.607 & ORS 811.609

Stats. Implemented: ORS 811.602 – ORS 811.640

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 735-110-0800; MV 4-1988, f. & cert. ef. 2-2-88; 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

735-080-0020

Who May Apply for Disabled Person Parking Permits

The following persons may apply for a disabled parking permit:

(1) A disabled person as defined in ORS 801.235.

(2) The administrator or other representative of an authorized program.

(3) An adult member of a family with more than one disabled person residing in the same household.

Stat. Auth.: ORS 801.235, ORS 802.010, ORS 811.602 - ORS 811.640 & Ch. 741, OL 1991

Stats. Implemented: ORS 811.602 & ORS 811.604 - ORS 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

735-080-0030

Documents Needed to Issue Disabled Person Parking Permits

Before DMV may issue a disabled person parking permit a person must apply to DMV.

(1) An applicant for an individual placard must submit an application that contains the applicant's name, address and a certificate as described in ORS 811.604(1)(a), and the number of the applicant's current driver license, identification card, disability golf cart driver permit or disabled identification card.

(2) An applicant for a program placard must submit an application containing the program name, the program address and a statement from a licensed physician certifying it to be an authorized program.

(3) An applicant for a family placard must submit an application containing the names of all disabled family members, the family's residence address and a statement from a licensed physician certifying that the family has more than one disabled person residing in the same household.

(4) An applicant for a temporary disabled person parking permit must submit an application that meets the requirements of ORS 811.606 and contains the applicant's name and address and the certificate required by ORS 811.604 including a date when the applicant will no longer need the permit, if known.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 811.602, ORS 811.607 & ORS 811.609

Stats. Implemented: ORS 811.602 & ORS 811.604 - ORS 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 735-110-0820; MV 38-1989, f. & cert. ef. 10-3-89; MV 20-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 18-2001(Temp), f. & cert. ef. 9-21-01 thru 3-19-01

735-080-0040

Replacement and Renewal of Disabled Person Parking Permits

(1) DMV may replace a disabled person parking permit, including a temporary duplicate permit. Replacement of a permit is subject to the following:

(a) An applicant for a replacement permit must certify that the original disabled person parking permit has been lost or destroyed;

(b) If a required certificate or statement from a licensed physician, certified physician assistant, certified nurse practitioner or licensed optometrist is on file with DMV, the person must submit an application for replacement;

(c) If a required certificate or statement from a licensed physician, certified physician assistant, certified nurse practitioner or licensed optometrist is not on file with DMV, the person must apply for a disabled person parking permit as if one had never previously been issued; and

(d) A replacement permit has the same expiration date as the disabled parking permit it replaces.

(2) A person may renew a disabled person parking permit, except for a temporary duplicate permit, upon expiration or within one year after the expiration date. The renewal of a permit is subject to the following:

(a) If the application is for an individual placard, it must meet the requirements of ORS 811.604(2), contain the applicant's name and address, and may be submitted at the same time as the renewal of a driver license, identification card, disability golf cart driver permit or disabled parking identification card;

(b) If the application is for a program placard, the application must contain the program name, the program address and a statement from a licensed physician certifying it to be an authorized program;

(c) If the application is for a family placard, it must contain the names of all disabled family members, the family's residence address and a statement from a licensed physician certifying that the family has more than one disabled person residing in the same household;

(d) A renewed family or program placard expires eight years from the expiration date of the immediately preceding placard or on the date the family or authorized program no longer meet the qualifying conditions, whichever is earlier;

(e) A renewed individual placard expires on the date that the person's driver license, identification card, disability golf cart driver permit or disabled parking identification card expires or on the date the applicant no longer meets the qualifying conditions, whichever is earlier.

(f) A temporary duplicate permit may not be renewed.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 811.602, ORS 811.607 & ORS 811.609

Stats. Implemented: ORS 811.602 & ORS 811.604 - ORS 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

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) A disabled person parking permit issued on or after January 1, 1996, shall be hung 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) A disabled person parking permit issued prior to January 1, 1996, shall be placed in the lower left-hand corner of the dashboard so the entire permit, including expiration date, is visible from outside the vehicle when the permit is displayed in the vehicle. If such display is not possible, for example, on a motorcycle or similar vehicle, the permit holder shall exchange the permit for a disabled person parking decal that may be obtained at no additional fee from DMV.

(4) Disabled person parking decals will be issued on or after January 1, 1996, 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 decal shall be attached 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, ORS 811.602, ORS 811.607 & ORS 811.609

Stats. Implemented: ORS 811.602 & ORS 811.604 - ORS 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

735-080-0060

Disabled Parking Identification Cards

(1) An applicant for an individual placard who does not have a driver license, driver permit, or identification card issued under ORS 807.400, must obtain an identification card without a photograph. The applicant must submit the following to DMV:

(a) An application for a disabled parking identification card that includes the applicant's name, residence address, date of birth, height, weight, and signature. 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 an identification card under ORS 807.410(1).

(2) The applicant must mail the application, fee and documentary proof to DMV, Driver Issuance Unit, 1905 Lana Avenue NE, Salem, Oregon 97314.

(3) A disabled parking identification card 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, ORS 184.619 & ORS 811.603

Stats. Implemented: ORS 811.603

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

735-080-0070

Replacement/Renewal of Disabled Parking Identification Cards

(1) DMV may replace a disabled 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 disabled parking identification card as set forth in OAR 735-080-0060(1) and (2);

(c) An applicant for a replacement disabled parking identification card must certify that the original disabled parking permit has been lost or destroyed; and

(d) The replacement disabled parking identification card will have the same expiration date as the disabled parking identification card it replaces.

(2) DMV may renew a disabled 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 OAR 735-062-0095(4); 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 disabled parking identification card.

(3) A renewed disabled parking identification card expires four years from the expiration date on the immediately preceding disabled parking identification card or on the date it is no longer medically impractical or harmful for the applicant to appear at a DMV office to be photographed for an identification card, whichever is earlier.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 811.603

Stats. Implemented: ORS 811.603

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

735-080-0080

Temporary Duplicate Permits

(1) An application shall be submitted to DMV before a temporary duplicate permit will be issued.

(2) DMV may issue a temporary duplicate permit to a person with a valid renewable disabled person parking permit, disabled person parking decal or temporary disabled parking permit.

(3) DMV shall only issue a temporary duplicate permit for travel purposes. Travel purposes means a person:

(a) Will be parking a vehicle in a disabled parking space;

(b) Will be traveling outside the person's county of residence; and

(c) Will be using a vehicle while traveling, other than the vehicle parked, for which the person needs a disabled person parking permit.

(4) DMV shall not issue a temporary duplicate permit with an expiration date this is later than the expiration date of the driver license or identification card of the individual applying for the permit.

(5) A temporary duplicate permit becomes valid on the date it is issued.

(6) A person may apply for a new temporary duplicate permit within seven days of the expiration of an existing temporary dupli-

cate 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

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 Branch (DMV) of the Oregon Department of Transportation.

(2) "Hearings Program" means a component of the Program Administration of DMV and includes the Hearings Case Management Unit.

(3) "Hearings officer" means the presiding officer at a hearing.

(4) "Department Error" for purposes of ORS 813.440(1)(c) means an act or omission which, by its occurrence, prevented the petitioning party from obtaining or attending a hearing.

(5) "Other just cause" as used in ORS 813.440(1)(e) means circumstances beyond the reasonable control of the petitioning party and beyond the ability of a reasonable person to foresee, which prevented the filing of a timely hearing request or appearance of a petitioning party at a scheduled hearing. Examples of other just cause may include but are not limited to:

(a) Personal accident or road accident interfering with either the petitioner's or attorney's ability to arrive at the hearing on time;

(b) Weather conditions of an extremely hazardous or life-threatening nature which precluded travel on the day of the hearing;

(c) Court conflicts.

(6) "Offense" means the alleged Driving While Under the Influence of Intoxicants incident.

(7) "Petitioner" means the person whose driving privileges may be suspended.

(8) "Petitioning Party" means the petitioner or the petitioner's attorney.

(9) "Received by the Hearings Case Management Unit" means:

(a) Personally delivered to 1905 Lana Ave. NE, Salem, OR;

(b) Delivered by mail to 1905 Lana Ave. NE, Salem, OR 97314; or

(c) Transmitted by facsimile machine to telephone number (503) 945-5521 and received by the Hearings Case Management Unit.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 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

735-090-0010

Adoption of Oregon Administrative Procedures Act and Attorney General's Model Rules of Procedure

(1) Except as provided in ORS 813.410, 813.440, and in OAR 735-090-0000 et seq., all hearings provided under ORS 813.410 and 813.440 shall be subject to the provisions for contested cases under ORS 183.310 to 183.470.

(2) The following Attorney General's Model Rules of Procedure shall apply to implied consent hearings:

(a) OAR 137-003-0040 — Conducting Contested Case Hearing;

(b) OAR 137-003-0045 — Telephone Hearings;

(c) OAR 137-003-0050 — Evidentiary Rules;

(d) OAR 137-003-0055 — Ex Parte Communication;

(e) OAR 137-003-0070 — Final Orders in Contested Cases;

(f) OAR 137-004-0010 — Unacceptable Conduct.

Stat. Auth.: ORS 183.341, ORS 813.410 & ORS 813.440.

Stats. Implemented: ORS 813.410

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; MV 10-1985, f. 9-19-85, ef. 9-20-85; MV 16-1986, f. & ef. 10-1-86; Administrative Renumbering 3-1988, Renumbered from 735-021-0105; DMV 7-1997, f. & cert. ef. 9-18-97

735-090-0020

Hearings Requests

(1) Hearings requests shall be in writing. 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;
- (h) Dates and times the petitioner or attorney cannot appear at a hearing.

(2) To be considered timely, a hearing request submitted pursuant to ORS 813.410(3) or Chapter 676, Oregon Laws 1995, for failure of a breath test or refusal of a breath, blood or urine test, must be received by the Hearings Case Management Unit no later than 5 p.m. of the tenth day following the arrest of the petitioner. Oregon Rules of Civil Procedure 10A (ORCP 10A) shall be used to determine the computation of time.

(3) To be considered timely, a hearing request submitted pursuant to ORS 813.410(3), for failure of a blood test, must be received by the Hearing Case Management Unit no later than 5 p.m. of the tenth day from the date the department sends notice of suspension. ORCP 10A shall be used to determine the computation of time.

(4) Hearings Program shall issue a final order denying an untimely hearing request unless the petitioning party demonstrates that the request should be granted under ORS 813.440.

(5) A hearing request may be withdrawn at any time by the petitioning party.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.341, 184.616, 813.410 & 813.440

Stats. Implemented: ORS 813.410, 813.440 & Ch. 676, OL 1995

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

735-090-0030

Notice of Time and Place of Hearing

(1) Upon receipt of a timely hearing request, the Hearings Case Management Unit shall notify the petitioning party as soon as is practicable of the date, time and place set for hearing. Written notification of the hearing shall be mailed to the address provided by the petitioning party in the hearing request.

(2) Actual appearance at the hearing by the petitioner or the petitioner's attorney waives any argument that notice of the hearing was not provided.

(3) In scheduling hearings, the Hearings Case Management Unit will consider conflicts only if specifically set forth by petitioning party in the hearing request. No hearing shall be reset after it is scheduled by the Hearings Case Management Unit unless:

(a) As required by ORS 813.410, 813.440, and OAR 735-090-0090;

(b) The presiding officer is unavailable.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 813.440

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; Administrative Renumbering 3-1988, Renumbered from 735-021-0115; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1997, f. & cert. ef. 9-18-97

735-090-0040

Document Submission Requirements

(1) The following documents, sent by police agencies, shall be received by the Hearings Case Management Unit by 5 p.m. of 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 813.410 or Chapter 676, Oregon Laws 1995, 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 the Hearings Case Management Unit by 5:00 p.m. of 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.

(4) Photocopies of the Intoxilyzer Operator's Check List, the Intoxilyzer Evidence Card and other relevant documents may be submitted with the above-listed documents.

(5) Oregon Rules of Civil Procedure 10A (ORCP 10A) shall be used to determine the computation of time.

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

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410, ORS 813.440 & Ch. 676, OL 1995

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

735-090-0050

Subpoenas

(1) Subpoenas for non-agency requested witnesses, which require the attendance of witnesses or the production of documentary or tangible evidence at a hearing shall be issued by the Hearings Case Management Unit upon receipt of a written request.

(2) The person who requests the issuance of a subpoena shall be responsible for having the subpoena served and for having the required witness and mileage fees paid.

(3) A witness shall not be compelled to attend and testify at a hearing unless served with a subpoena at least 72 hours prior to the time of the hearing.

(4) The agency shall not issue a subpoena which does not contain the name of the witness subpoenaed.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 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 735-021-0125; 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

735-090-0060

Discovery/Disclosure

(1) To obtain a photocopy of any document which is a public record, relates to a petitioner's hearing, and is in the possession of the Hearings Case Management Unit, the petitioning party shall submit a written request to the Hearings Case Management Unit. The Hearings Case Management Unit will attempt to send the photocopy to the petitioning party prior to the hearing. Failure of the Hearings Case Management Unit to provide the photocopy prior to the hearing will not be grounds for staying or rescinding the suspension.

(2) If the petitioning party submits a written request for photocopies of documents that are public records immediately prior to or during the hearing, the photocopies shall be provided at the time the final order is issued.

(3) Depositions shall not be ordered by the agency.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410, ORS 813.440 & Ch. 741, OL 1993

Stats. Implemented: ORS 813.410

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; Administrative Renumbering 3-1988, Renumbered from 735-021-0130; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93

735-090-0070

Records of Proceedings

(1) A record of the proceedings of each hearing shall be made by the hearings officer. The record includes:

- (a) A tape recording of the hearing except where the hearings officer authorizes another method of reporting the hearing;
- (b) Exhibits and other items of an evidentiary nature; and
- (c) Papers, requests and rulings related to the hearing.

(2) This record shall remain in the custody and possession of the Hearings Case Management Unit at all times unless the final order is appealed. Upon appeal, the record shall be transmitted to the appropriate court.

(3) Upon request, the Hearings Case Management Unit shall provide a copy of the tape recording. The request must be in writing and accompanied by a fee of \$6 per tape.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 184.619, ORS 192.440, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; Administrative Renumbering 3-1988, Renumbered from 735-021-0135; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 16-1998, f. 12-17-98, cert. ef. 1-1-99

735-090-0080

Finality of Order

(1) The hearings officer shall issue a final order. The order is final when signed and dated by the hearings officer presiding at the hearing, or when signed and dated by another authorized employee as designated by the manager of the Hearings Program.

(2) The order is issued when a copy of the final order is mailed to the petitioner or the petitioner's attorney.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; Administrative Renumbering 3-1988, Renumbered from 735-021-0140; 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

735-090-0090

Default

(1) Failure of the petitioning party to appear at a scheduled hearing will result in a waiver of the right to a hearing and to an appeal. An order of default shall advise the petitioning party of the opportunity to file a petition under OAR 735-090-0110 and ORS 813.440. Nothing in this section precludes a stipulated default order where just cause is demonstrated prior to or at the time of the hearing.

(2) If the petitioning party appears for a scheduled hearing and a police officer subpoenaed as a necessary agency witness does not appear at the hearing, an order will be issued withdrawing the suspension. The order will state that a subsequent hearing may be conducted if the agency verifies that the default was caused by official duty conflicts pursuant to OAR 735-090-0120.

(3) A petitioning party or necessary agency witness shall be considered to have appeared if present within fifteen minutes after the time the hearings officer is ready to begin the hearing. Persons not available for the hearing due to their involvement in another administrative hearing then being conducted, shall not be deemed absent by reason of the foregoing, and in such instances the hearings officer shall not begin the hearing until the person has been released from attendance at the prior hearing.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 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 735-021-0150; 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

735-090-0100

Hearing Locations

(1) The hearing shall be held either in the county where the alleged offense occurred or at any place within 100 miles of the place where the offense is alleged to have occurred, as assigned by the agency.

(2) Hearings may be conducted by telephone, including video teleconferencing, with the hearings officer, petitioning party and witnesses appearing from multiple locations. The petitioning party's point of origin will be considered the hearing location in such instances.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 813.440

Hist.: MV 5-1984, f. 6-29-84, ef. 7-1-84; MV 17-1984, f. & ef. 11-16-84; MV 5-1985, f. 5-15-85, ef. 5-16-85; MV 10-1985, f. 9-19-85, ef. 9-20-85; MV 11-1987(Temp), f. 9-11-87, ef. 9-14-87; MV 24-1987(Temp), f. 9-29-87, ef. 10-7-87; Administrative Renumbering 3-1988, Renumbered from 735-021-0155; MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1997, f. & cert. ef. 9-18-97

735-090-0110

Just Cause Petitions

(1) 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:

(a) The information specified in OAR 735-090-0020(1);

(b) The date and DMV case number of the defaulted hearing, when applicable; and

(c) 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

(d) Any other documentation relied upon.

(2) The Hearings Program will give prompt attention to such petitions and telephone hearings may be used to expedite the agency's determination of whether the petition should be granted and a full hearing scheduled.

(3) When the Hearings Program determines that a petition shall be granted, a new hearing shall be scheduled promptly.

Stat. Auth.: ORS 183.341, ORS 184.616, ORS 813.410, ORS 813.440 & Ch. 741, OL 1993

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

735-090-0120

Official Duty Conflicts

(1) If a subpoenaed police officer is unable to appear at a hearing under ORS 813.410 due to official duty conflicts, a scheduled hearing shall be set as soon as practicable.

(2) The agency shall rescind the suspension of the petitioner's driving privileges pending the outcome of the scheduled hearing conducted pursuant to ORS 813.440(1)(d).

(3) The Hearings Program may receive notification of an official duty conflict before or after a hearing. Post hearing notification must be received by the Hearings Case Management Unit no later than 10 days after the hearing. Verification must be to the satisfaction of the department.

(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;

(c) Hazardous or impeding travel conditions;

(d) Participating in employer approved training;

(e) Physical incapacity; or

(f) Service in the US Armed Forces, military reserves, National Guard or the organized militia.

(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, ORS 184.616, ORS 813.410 & ORS 813.440

Stats. Implemented: ORS 813.410 & ORS 813.440

Hist.: MV 15-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1997, f. & cert. ef. 9-18-97

DIVISION 100

VEHICLE EQUIPMENT: 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 in this rule are available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 184.811, ORS 184.815, ORS 184.816 & ORS 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 Section, Transportation Development Branch 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, ORS 815.010, ORS 815.030 & ORS 816.010

Stats. Implemented: ORS 815.010, ORS 815.030 & ORS 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 Section, Transportation Development Branch 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, ORS 811.515, ORS 816.260, ORS 818.260 & ORS 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

735-100-0030

Designation of Emergency Vehicles

(1) The Transportation Safety Section, Transportation Development Branch of the Department of Transportation (Transportation Safety) adopts these requirements regarding "Designated Emergency Vehicles."

(2) For purposes of this rule:

(A) "Competent mechanic" means anyone who:

(A) Is active at repairing vehicles of the type for which the designation is requested; and

(B) Receives a substantial part of their income by repairing vehicles.

(b) "Designated emergency vehicle" means a vehicle so designated, as allowed by ORS 801.260(3);

(c) "Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action;

(d) "Owner" means a person or firm who owns the vehicle, or their authorized representative.

(3) Transportation Safety will consider issuance of an emergency vehicle designation upon receipt of:

(a) A written request from the owner, that details:

(A) A complete description of the vehicle. This includes year model, make, body style, identification number, and the Oregon plate number, if a plate is assigned;

(B) How the vehicle will be used in emergency situations;

(C) The explicit need for this type of emergency vehicle in the area where it will be used;

(D) Any other data that shows special qualifications of the vehicle for emergency use. For example, it was manufactured as a fire truck, or, it has been specially converted or equipped with emergency supplies, life support equipment, etc.

(b) A map, detailing the actual area or routes where the vehicle will be used as an emergency vehicle;

(c) A certification, signed by a competent mechanic, that the vehicle is in a safe operating condition;

(d) A written recommendation from the sheriff's office of the county of registration of the vehicle; and

(e) Written recommendation(s) from all other law enforcement agencies in the area(s) in which the vehicle will be used as an emergency vehicle.

(4) Designated emergency vehicles shall be equipped with warning lights and sirens as required by ORS 801.260 that:

(a) Comply with Oregon law regarding types and usage, and with standards and requirements of Transportation Safety; and

(b) Are used only in emergency situations and as allowed by Oregon law.

(5) Designations that are approved shall be reviewed by Transportation Safety every two years. This will be to assure the vehicle and its usage still qualify for the designation. New data, as listed in section (3) of this rule, may be requested from the owner.

(6) Special traffic law privileges of ORS 820.300 through 820.320, apply to drivers of designated emergency vehicles:

(a) When the vehicle is actually being used in an emergency situation; and

(b) When the vehicle is operated in compliance with all traffic laws, including these special privileges.

(7) An emergency vehicle designation shall not be issued for law enforcement purposes.

(8) An emergency vehicle designation shall not authorize the vehicle to use blue warning lights.

(9) An emergency vehicle designation shall not be transferred to another vehicle. The owner may submit a written request that a replacement vehicle be designated. The request shall include:

(a) A description of both vehicles;

(b) A statement that there have been no changes in the emergency use of the vehicle; and

(c) A competent mechanic's certification for the replacement vehicle.

(10) An emergency vehicle designation shall be cancelled when:

(a) The vehicle has been sold;

(b) The vehicle will no longer be used as an emergency vehicle or in the area specified in the owner's request;

(c) A law enforcement agency requests cancellation due to abuse or violation of the designation or special traffic law privileges, or withdrawal of their favorable recommendation;

(d) A city, county or other governing body requests, and provides supporting data for cancellation;

(e) The vehicle is operated as an emergency vehicle, other than as permitted by the designation;

(f) The vehicle is operated in violation of Oregon law;

(g) There is no longer a need, because adequate emergency services are now provided in the area.

Stat. Auth.: ORS 184.616, ORS 801.260, ORS 815.230, ORS 816.310, ORS 820.350 & ORS 820.370

Stats. Implemented: ORS 820.350

Hist.: MV 2-1987, f. & ef. 3-16-87; Administrative Renumbering 3-1988, Renumbered from 735-160-0020

DIVISION 102

OCCUPANT/RIDER PROTECTION

735-102-0000

Seat Belt Assemblies and Seat Belt Assembly Anchorages

The Transportation Safety Section, Transportation Development Branch 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**.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 815.030 & ORS 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 Section, Transportation Development Branch 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 815.030 & ORS 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 Helmets

(1) The Transportation Safety Section, Transportation Development Branch of the Oregon Department of Transportation (Transportation Safety) adopts **American National Standard Institute (ANSI) Z90.4, Protective Headgear for Bicyclists**, and **SNELL Memorial Foundation (SNELL) B90**:

(a) Adoption of **ANSI Z90.4** establishes minimum performance criteria and test procedures for all bicycle helmets designed for use by bicyclists; and

(b) The purpose of this standard is to reduce deaths and injuries to bicyclists by providing minimum acceptable levels of head protection.

(2) Bicycle helmets shall be permanently marked with the following information:

(a) Manufacturer's name;

(b) Manufacturer's model designation;

(c) Date of manufacture;

(d) Bicycle helmet size; and

(e) Meets ANSI Z90.4, SNELL B90 or both.

(3) Bicycle helmets shall be labeled with the following information:

(a) This helmet is designed only for bicycle use;

(b) No helmet can protect the wearer against all foreseeable impacts. However, for maximum protection, the helmet must be of good fit and all retention straps must be securely fastened;

(c) This helmet is so constructed that the energy of an impact may be absorbed through partial destruction of the headgear, though damage may not be visible to the naked eye. If it suffers such an impact, it should either be returned to the manufacturer for competent inspection or destroyed and replaced; and

(d) This helmet can be seriously damaged by some common substances without visible damage. Apply only the following: (Recommended cleaning agents, paints, adhesives and the like) as appropriate.

(4) For purposes of this rule, a bicycle helmet is defined as a protective covering for the head consisting of a rigid head covering and a chin-strap type retention system. A bicycle helmet in compliance with this rule constitutes "protective headgear" for purposes of Chapter 408, Oregon Laws 1993.

(5) A bicycle helmet having visible cracks, tears and dents is not in compliance with this standard unless the helmet was inspected and recertified by the manufacturer to be in compliance with this standard. The manufacturer shall mark the helmet with a retest date and provide the user with a copy of the test results.

(6) Transportation Safety may request a manufacturer's test results and name of testing lab for conformance review, and may consider testing or retesting at any time there is a reason to believe an item does not meet established standards.

(7) This rule will be deemed in effect retroactively to August 19, 1994.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616 & Ch. 408, OL 1993
Stats. Implemented: Ch. 408, OL 1993
Hist.: DMV 8-1994, f. & cert. ef. 8-19-94; DMV 13-1994, f. & cert. ef. 10-20-94

DIVISION 104

WINDOWS AND GLAZINGS

735-104-0000

Glazing Materials

The Transportation Safety Section, Transportation Development Branch 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**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 815.030 & ORS 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 Section, Transportation Development Branch 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.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 815.030 & ORS 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, ORS 815.030, ORS 816.010, ORS 816.040 & ORS 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 OAR 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 Section, Transportation Development Branch 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, ORS 815.030 & ORS 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, ORS 815.030, ORS 816.010, ORS 816.040, ORS 816.050 & ORS 816.060

Stats. Implemented: ORS 816.010, ORS 816.050, ORS 816.060, ORS 816.070 & ORS 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, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 816.010 & ORS 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, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 816.250 - ORS 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, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 816.250 - ORS 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, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 816.250 - ORS 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, ORS 815.030, ORS 816.010, ORS 816.040 & ORS 816.170

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 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 in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 816.010, ORS 816.040 & ORS 816.060

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 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 & ORS 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 in this rule are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 816.010 & ORS 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 & ORS 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 & ORS 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, ORS 815.030, ORS 816.010 & ORS 816.040

Stats. Implemented: ORS 811.515, ORS 816.010 & ORS 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 & ORS 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, ORS 815.030, ORS 816.010, ORS 816.040 & ORS 816.050.

Stats. Imp.: ORS 814.320, ORS 816.010 & ORS 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, ORS 815.030, ORS 816.010, ORS 816.040 & ORS 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 in 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, ORS 815.030, ORS 816.010, ORS 816.040 & ORS 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 815.030, ORS 816.010 & ORS 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 Section, Transportation Development Branch 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, ORS 815.030 & ORS 820.370
Stats. Implemented: ORS 815.030, ORS 815.225 - ORS 815.230 & ORS 820.350 - ORS 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 Oregon State Health Division 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, ORS 815.030 & ORS 820.370
Stats. Implemented: ORS 815.030, ORS 815.225 - ORS 815.230 & ORS 820.350 - ORS 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 in this rule are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 815.010, ORS 815.030 & ORS 820.370
Stats. Implemented: ORS 815.030, ORS 815.225 - ORS 815.230 & ORS 820.350 - ORS 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, ORS 815.030, ORS 815.230 & ORS 820.370
Stats. Implemented: ORS 815.030, ORS 815.225 - ORS 815.230 & ORS 820.350 - ORS 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, ORS 815.230 & ORS 820.370
Stats. Implemented: ORS 815.030, ORS 815.225 - ORS 815.230 & ORS 820.350 - ORS 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 Oregon State Health Division 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, ORS 815.030, ORS 815.230, ORS 815.370 & ORS 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 Section, Transportation Development Branch 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, ORS 818.150, ORS 818.160 & ORS 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 Section, Transportation Development Branch 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**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 815.030 & ORS 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 Section, Transportation Development Branch 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, ORS 811.530, ORS 815.035 & ORS 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 Section, Transportation Development Branch 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 & ORS 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

Equipment Standards for Off-Road Vehicles Operating in the Oregon Dunes National Recreation Area and Sand Beach Activity Zone

(1) The Transportation Safety Section, Transportation Development Branch of the Department of Transportation adopts the following requirements for equipment for off-road vehicles operating in the Oregon Dunes National Recreational Area and/or the Sand

Beach Activity Zone and Tillamook County Sand Beach Park Area as described in ORS 821.020.

(2) For purposes of this rule, the following definitions apply:

(a) "Off-road vehicle" means any 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 every 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

(d) "Multi-wheeled motorized vehicle" means a Class 1 all-terrain vehicle and any other 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.

(3) Equipment standards for these vehicles are:

(a) Brakes — All vehicles shall have brakes that are operable and effective in bringing the vehicle to a stop;

(b) Chain Guard — Any vehicle equipped with a chain shall 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, shall 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, except motorcycles, shall display a red flag when operating on the sand. The flag must be displayed at a height of at least nine feet from the ground level when the vehicle is under power. The flag must have one side that is at least eight inches wide, and the flag must not be less than twelve inches long;

(e) Floor Pan/Foot Pads — All vehicles shall have floor pans, with the exception of motorcycles and multi-wheeled motorized vehicles, which shall 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 shall 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 shall be kept secure and tight.

(g) Muffler — All vehicles shall 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, shall 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 shall 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, shall 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.

Stat. Auth.: ORS 184.616, ORS 821.020, ORS 821.030 & ORS 821.040

Stats. Implemented: ORS 821.030 - ORS 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

DIVISION 118

IGNITION INTERLOCK DEVICES

735-118-0000

Definitions Relevant to Ignition Interlock Devices

For purposes of OAR 735-118-0000 through 735-118-0040, the following definitions will apply:

(1) "Alcohol" means the generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of ignition interlock devices, there is no requirement expressed or implied that the device be manufactured specifically to detect ethyl alcohol.

(2) "Alveolar Air" also called "Deep Lung Air" means the air sample which is the last portion of a prolonged, uninterrupted exhalation and which gives a quantitative measurement of alcohol concentration from which blood alcohol concentration can be determined. The alveoli are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gasses occurs during respiration. Alcohol in the blood is eliminated from the lungs via the alveoli.

(3) "Blood Alcohol Concentration (BAC)" means the weight (w) amount of alcohol contained in a unit volume (v) of blood, measured in grams Ethanol/100ml blood and expressed as %, grams %, % w/v and % BAC. Blood alcohol concentration in these rules will be designated a "% BAC."

(4) "Bogus" means air samples that are not human breath samples and may include but are not limited to compressed air, hot air dryers, balloons filled with air (human breath or other air sources), manual air pumps.

(5) "Court" means a court that has made the use of an ignition interlock device a mandatory part of a particular individual's sentencing for a conviction of driving under the influence of intoxicants.

(6) "Customer" means anyone, including, but not limited to, a person, company, agency or organization that purchases, rents, or leases, etc., an ignition interlock device from a manufacturer.

(7) "Device" means an ignition interlock device.

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

(9) "Ignition Interlock Device" means an instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level.

(10) "Interlock" means the state in which a device prevents a motor vehicle from starting.

(11) "Manufacturer" means a person, company, corporation, or representative, who manufactures, produces, provides, sells, rents or leases an ignition interlock device.

(12) "Purge" means any mechanism by which a device cleanses or removes a previous breath test sample from the device and specifically removes residual alcohol.

(13) "Restart" means the ability to start the engine again without giving another test. A "restart" occurs after a test is successfully completed, the vehicle is started, and then, at some point, the engine stops for any reason (including stalling) and must be restarted.

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

735-118-0010

Ignition Interlock Devices Approved for Use on Vehicles in Oregon

Ignition interlock devices acceptable for use in Oregon must be:

(1) Devices that have been certified by the manufacturer that they meet the performance standards of OAR 735-118-0040;

(2) Devices for which the manufacturer meets product liability requirements of OAR 735-118-0020; and

(3) On the list of approved devices maintained by DMV.

[ED. NOTE: The list referenced in this rule is available from the agency.]

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

735-118-0020

Product Liability for Ignition Interlock Devices

(1) Each manufacturer of ignition interlock devices 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 of devices that appear on Oregon's approved device list must provide to DMV, a statement that the manufacturer 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.

(3) As evidence of product liability insurance, each manufacturer must, upon request, provide a certificate of insurance to DMV.

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

735-118-0030

Revocation of Approval of Ignition Interlock Devices

(1) DMV may revoke approval of a device, and remove it from the list of acceptable 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 manufacturer's liability insurance;
- (c) Notification that the manufacturer is no longer in business;
- (d) Voluntary request of the manufacturer to remove a device from the acceptable list; or
- (e) Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards.

(2) The effective date of revocation will be ten days after notification is sent to the manufacturer via certified mail, except in cases where DMV determines immediate revocation is necessary for the safety and welfare of the public.

(3) Manufacturers may request a review of revocation. Such request must be submitted to DMV, in writing, within 21 days of the revocation.

(4) Upon revocation or voluntary surrender of an approval, a manufacturer will be responsible for removal of all like devices from customers' vehicles.

(5) A manufacturer will be responsible for any costs connected with removal of their revoked devices from customers' vehicles and the installation of new devices from DMV's list of approved devices.

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

735-118-0040

Performance Standards for Ignition Interlock Devices

An ignition interlock device must meet the following performance standards:

- (1) Function properly 95 percent of the time.
- (2) Not impede the safe operation of the vehicle in any way.
- (3) Be manufactured with all reasonable precautions taken to prevent tampering or physical circumvention of device functions.
- (4) Utilize breath samples that are alveolar air samples.
- (5) Be capable of being preset to a specific % BAC from a range of 0.00 through 0.10% BAC (+ or - .005%). Devices installed must be preset to % BAC specified by DMV.

(6) Prevent the vehicle from starting if the breath sample is equal to or higher than the preset % BAC.

(7) Prevent the vehicle from starting for a period of time not to exceed 15 minutes due to:

- (a) Three failure attempts; or
- (b) Breath sample exceeding preset alcohol level.
- (8) Automatically and completely purge all residuals within ten minutes before allowing subsequent tests.

(9) Allow the vehicle to be started if alcohol under the preset % BAC is detected in the breath sample.

(10) Detect bogus air samples.

(11) Prevent vehicle starting due to use of a bogus air sample.

(12) Detect a condition that would be considered tampering and:

- (a) Prevent starting if repair or recalibration to the vehicle and device are not completed within seven days; or
- (b) Have a computer printout or other means of indicating tampering to the authorized service technician.

(13) Require a periodic inspection every 60 days. The vehicle owner will be reminded of the inspection by:

- (a) Activation of an indicator light on the device, not less than three days prior to the scheduled inspection date;
- (b) Notification by certified mail, not less than seven days prior to the scheduled inspection date; or
- (c) Both the indicator light and certified mailing of the reminder.

(14) Function properly in a temperature range of -40 degrees to +70 degrees centigrade.

(15) Function properly at all altitudes through 10,000 feet.

(16) Permit a restart within three minutes, without an additional test, when the ignition is turned off or the vehicle has stalled.

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

DIVISION 120

TRANSPORTATION OF WORKERS: DEFINITIONS/RIGHTS OF TRANSPORTATION SAFETY

[ED. NOTE: Previous Administrative Order MV 11 was superseded by Department of Commerce Order DC 1 as a result of the enactment of Senate Bill 188 (1971 Session). Subsequently, Orders MV 49 (Temp) and MV 57 superseded Department of Commerce Orders DC 1 and DC 9 as a result of the enactment of Senate Bill 44 (1973 Session).]

Purpose, Scope, and Application

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 Section, Transportation Development Branch 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, ORS 820.010 & ORS 820.070

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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.

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.

(3) 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 & ORS 820.030

Stats. Implemented: ORS 820.010 thru ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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, ORS 811.515, ORS 816.260 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0022

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 circumstances 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0024

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0028

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0030

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0032

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0034

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0036

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0038

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0040

735-124-0160

Sun Shield

All class vehicles shall be equipped with an adjustable sun visor.

Stat. Auth.: ORS 184.616 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0042

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 & ORS 820.030

Stats. Implemented: ORS 820.010 - 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 735-081-0044

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 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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 735-081-0046

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, ORS 815.230 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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 735-081-0048

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, ORS 815.040 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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 735-081-0050

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 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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; 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 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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 735-081-0072

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 & ORS 820.030
 Stats. Implemented: ORS 820.010 - 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 735-081-0074

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 & ORS 820.030
 Stats. Implemented: ORS 820.030 & ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.030 & ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.030 & ORS 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, suitable location 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 & ORS 820.030

Stats. Implemented: ORS 820.030 & ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.030 & ORS 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 & ORS 820.030

Stats. Implemented: ORS 820.030 & ORS 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 & ORS 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 140

MOBILE HOMES

735-140-0000

Definitions

The following definitions apply to OAR 735-140-0000 through 735-140-0130:

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

(2) "Legal Description of Land" shall include a description of the real estate. The description shall be detailed so that if it were contained in a mortgage of the real estate, it would give constructive notice of the mortgage under the law of this state. A "legal description of land" may be found on a deed or on file with the county clerk.

(3) "Legal Description of the Mobile Home" includes the model year, the make, width, length, and vehicle identification number (VIN). The date of manufacture must be included for 1976 models.

(4) "Security Interest Holder" is one who is identified as a security interest holder on the title of the mobile home. If a title has not been issued to the mobile home, "security interest holder" is one who would be so identified if a title were to be issued.

(5) "Record Title" is a title to real estate, that can be proven by entries on the public land records at the county clerk's office.

(6) "Vehicle Identification Number (VIN)" is the serial number assigned by the manufacturer of the mobile home or by DMV. The VIN will be the model number followed by the serial number, if the serial number contains less than five characters.

(7) "Owner" is the registered or recorded owner of the mobile home and does not include a lessee or a security interest holder.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0010; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0010

Contents of Application for Exemption

An application to exempt a mobile home from titling must include:

(1) "Application to Exempt Mobile Home from Registration and Titling" (Form 6722) including:

(a) The legal description of the mobile home and the land on which it is located;

(b) The tax lot number assigned to the land or mobile home or both;

(c) Names and addresses of persons holding an interest in the mobile home, land or both. This would include all security interests, lienholders of record, mortgagees and beneficiaries of deeds of trust;

(d) A certification from the applicant that all mortgages, deeds of trust, liens of record or security interests have been identified on the application or attachment;

(e) A certification that the land and/or mobile home are free and clear of all mortgages, deeds of trust, security interests and liens, if there are none;

(f) Signed approval of all security interest holders and lienholders in the mobile home to submit the application;

(g) Signature of all owners;

(h) Approval by DMV; and

(i) Notation of recording with the county clerk.

(2) A Department of Revenue Form 113 or letter signed by the assessor and tax collector verifying that all taxes which have or will become a lien on the mobile home during the tax year in which the application is submitted have been paid. (Applies to titled mobile homes only.)

(3) The endorsed certificate of title and identification plate or registration plate for the mobile home. (Applies to titled mobile homes only.)

(4) The Manufacturer's Certificate of Origin (MCO) if in the case of a mobile home not previously titled. The MCO must be endorsed or accompanied by a bill(s) of sale showing the mobile home is owned free and clear by the applicant. If the purchase is being financed by a third party, DMV must receive a copy of the lender's check to the seller, or the loan commitment letter or other evidence of who made the loan, such as a copy of the deed, a copy of the trust deed, etc.

(5) A title report, lot book report or equivalent report from a title company on the land and mobile home. This is to verify the identity of all mortgagees, trust deed beneficiaries, lien holders of record, and security interest holders in the mobile home. This report must be dated no more than seven days prior to the date the application is received by DMV.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0020; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0020

Contents of Application for Title on Previously Exempted Mobile Homes

An application to title a mobile home previously exempted from the registration and titling requirements of ORS Chapter 820, pursuant to ORS 820.510, shall include the following:

(1) An Application to Title an Exempt Mobile Home, Form 6721, including:

(a) A legal description of the mobile home and the land on which it is located;

(b) Tax lot number(s) assigned to either the land or mobile home or both by the county in which the property is located;

(c) Names and addresses of persons holding an interest in the land or mobile home or both. This would include all security interest holders, lienholders, mortgagees and beneficiaries of deeds of trust;

(d) A certificate that all mortgages, deeds of trust, liens of record, or security interests, if any, in the land or mobile home or both, have been identified on the application or attachment;

(e) A certification that the land and/or mobile home are free and clear of all mortgages, deeds of trust, security interests and liens, if there are none;

(f) Signed approval of all security interest holders, mortgagees, trust deed beneficiaries and lienholders of record who hold an interest in the mobile home, to submit the application;

(g) Signature of all recorded owners of the mobile home; and

(h) Notation of recording with the county clerk.

(2) A completed and signed Application for Title and Registration, Form 226.

(3) A Department of Revenue Form 113 or letter signed by the assessor and tax collector verifying all taxes which have or will become a lien on the mobile home during the tax year in which the application is submitted have been paid.

(4) Title and registration fees required by law.

(5) A title report, lot book report or equivalent report from a title company on the land and mobile home verifying the identity of all vested owners, mortgagees, trust deed beneficiaries, lienholders of record, and security interest holders in the mobile home. This report must be dated no more than seven days prior to the date the application is received by DMV.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0030; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0030

Roles/Responsibilities

(1) The application for exemption from titling and registration of a mobile home and for titling and registration of a mobile home previously exempted pursuant to ORS 820.510 shall be submitted to the DMV. County assessors are not authorized to receive or process applications on behalf of the DMV.

(2) DMV shall not approve applications for exemption, or applications for title for a mobile home previously exempted, unless all requirements for application have been met.

(3) It shall be the responsibility of the applicant(s), security interest holders, mortgagees, and trust deed beneficiaries to take action as they deem necessary to protect their respective interests in conjunction with an application for an exemption or a title for a mobile home previously exempted, pursuant to ORS 820.510.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0040

735-140-0040

DMV Records on Mobile Homes

(1) DMV shall maintain a record of each mobile home exempted from titling up to and including the record of exemption. DMV will retain that record but no other information will be required until an application to re-title the mobile home is submitted.

(2) When an exempt mobile home is subsequently re-titled and registered, DMV will maintain a record, as long as the mobile home is being titled and registered in Oregon. This record will include information received on the application for title and registration.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0030

735-140-0060

Applicants Qualifications

(1) All registered owners of the mobile home must sign the application for exemption covered in OAR 735-140-0010(1)(g).

(2) All registered owners of a mobile home subject to an application for exemption must hold an interest in the record title to the land but they do not need to be the only owner of the land.

(3) All owners of record title in an exempt mobile home subject to an application to title the mobile home must sign the application.

(4) Owners of the land on which an exempt mobile home is located who are not also owners of the mobile home need not be a party to an application to title that mobile home. The mobile home may be titled without their signature.

(5) A lessee of a mobile home or the land on which it is located cannot apply for an exemption or for a title on a mobile home previously subject to an exemption. The term "owner" does not include a lessee when used in these rules and regulations.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0070

735-140-0070

Taxes Must Be Paid Prior to Application

(1) Payment of taxes required by ORS 820.500 shall apply to mobile homes which have been exempted from titling and are being re-titled. DMV will not approve an application for title on such a mobile home unless:

(a) The applicant provides proof that the required taxes have been paid; or

(b) The taxing authority approves the issuance of title without payment of taxes.

(2) The taxes covered in section (1) of this rule include:

(a) Taxes which are due or which will become a lien on the mobile home during the tax year in which the application is submitted; and

(b) Deferred taxes on the mobile home.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0080

735-140-0080

Recording of Exemption or Title

(1) All applications for exemption from title, or for a title on a previously exempted mobile home that have been approved by DMV must be recorded with the county clerk:

(a) DMV will return the approved "Application to Exempt Mobile Home from Registration and Titling" or "Application to Title an Exempt Mobile Home" to the applicant or the party submitting the application;

(b) The applicant must have the application recorded with the county clerk of the county in which the mobile home and land is located within 15 days; and

(c) The county clerk must send a copy of the recorded application to DMV within 30 days of the date of recording. The document shall show the date, time and place of recording.

(2) Failure of the applicant to record the application within 15 days of the date DMV mails (or personally gives) the application to the applicant will void the application and the change in status of the mobile home.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0090; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0090

Notice of Exemption or Title

(1) DMV will notify the following affected parties when a properly recorded application for exemption is received

- (a) Security interest holders;
- (b) Lienholders of record in the mobile home;
- (c) The County Assessor of the county in which the mobile home and land are located; and
- (d) The applicant(s).

(2) DMV will notify the following affected parties and issue a title when a properly recorded application for title is received:

- (a) Mortgagees;
- (b) Trust deed beneficiaries;
- (c) Lienholders of record;
- (d) Security interest holders;
- (e) The County Assessor of the county in which the mobile home and land are located; and
- (f) The applicant(s).

(3) If the application for exemption or title is not filed or is not filed within the required 15-day period, the application will be considered void. DMV will so notify the:

- (a) Applicant;
- (b) Mortgagees;
- (c) Trust deed beneficiaries;
- (d) Lienholders of record;
- (e) Security interest holders; and
- (f) County Assessor of the county in which the mobile home and land are located.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510
 Stats. Implemented: ORS 820.510
 Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0100; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0100

Effective Date of Exemption of Title

(1) The time a complete and correct application for exemption, approved by DMV, is recorded in the county in which the mobile home and land are located shall determine:

(a) The time the mobile home is exempt from registration and title; and

(b) The time the mobile home becomes subject to the real property laws of Oregon.

(2) The time a complete and correct application for title approved by DMV is recorded shall determine:

(a) The time a mobile home previously exempt from title and registration becomes subject to title and registration; and

(b) The time a mobile home previously exempt becomes subject to personal property laws.

(3) The date DMV receives an application for title on a mobile home which has been exempt shall determine the date of perfection for a security interest shown on that application. The security interest shall not be considered perfected if:

(a) DMV determines the application is not in proper form; or

(b) The applicant fails to record the approved application within the 15-day period required under OAR 735-140-0080.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0110

735-140-0110

Sale or Movement of Exempt Mobile Home Prohibited

(1) A mobile home exempted from titling and registration cannot be moved or sold separately from the land on which it was located. The mobile home must be titled and registered under ORS Chapters 803 and 820 before it can be moved or sold separately from the land.

(2) A trip permit shall not be issued to anyone to move a mobile home which is exempt from titling and registration pursuant to ORS 820.510(2)(b).

Stat. Auth.: ORS 802.010, 820.510 & ORS 820

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0120

735-140-0120

The Uniform Commercial Code Shall Still Apply in Certain Instances

The rights and liabilities of parties governed by ORS 79.3070 are not altered by these rules.

Stat. Auth.: ORS 802.010, ORS 820.510 & ORS 820

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0130

735-140-0130

Exemption is Voidable if Applicant or Mobile Home Do Not Meet Eligibility Requirements

(1) DMV may void the exemption if it is determined after an exemption has been granted that an applicant or mobile home does not meet the legal requirements for an exemption.

(2) DMV shall notify all owners of the mobile home, security interest holders, lienholders of record, mortgagees, trust deed beneficiaries, and the County Assessor of the county in which the mobile home and land are located that:

(a) The mobile home is no longer eligible for exemption from titling and registration; and

(b) The mobile home must be titled and registered with DMV within 90 days from the date such notice is mailed.

(3) DMV will declare the exemption void after 90 days if the deficiency in meeting legal requirements for an exemption has not been corrected. The mobile home must be titled and registered according to OAR 735-140-0020.

Stat. Auth.: ORS 801.465, ORS 802.010, ORS 803.030, ORS 820.500 & ORS 820.510

Stats. Implemented: ORS 820.510

Hist.: MV 12-1985, f. 9-19-85, ef. 9-30-85; Administrative Renumbering 3-1988, Renumbered from 735-075-0140; MV 15-1989, f. & cert. ef. 8-16-89

735-140-0135

Manufactured Structure Trip Permit Agents

(1) As used in OAR 735-140-0135 and 735-140-0140:

(a) "Manufactured structure trip permit agent" is any entity designated by Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) to issue manufactured structure trip permits on behalf of DMV.

(b) "Entity" is a person, agency, or business and includes a federal, state, county or municipal agency.

(2) Unless otherwise designated as an agent by statute or administrative rule, an applicant may become a manufactured structure trip permit agent if:

(a) The applicant enters into an agreement with DMV to be designated as a manufactured structure trip permit agent;

(b) The applicant agrees to abide by all Oregon statutes and DMV rules regarding the issuance and sale of manufactured structure trip permits; and

(c) DMV, in its judgment, believes it is in the interest and convenience of the motoring public to approve the applicant as a manufactured structure trip permit agent.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 190.110 & ORS 803.600.

Stats. Implemented: ORS 308.865, ORS 803.600, ORS 820.510, & ORS 820.560

Hist.: DMV 4-2001(Temp), f. & cert. ef. 2-16-01 thru 8-14-01; DMV 12-2001, f. & cert. ef. 7-18-01

735-140-0140

Manufactured Structure Trip Permits

(1) Movements of manufactured structures over highways of this state shall be by trip permit. This does not apply to movements allowed under ORS 822.310(1)(c).

(2) In the case of a multiple-unit manufactured structure, a trip permit is required for each unit. The \$5 fee will be required for each permit issued:

(a) Anyone may apply for and be issued a manufactured structure trip permit. Individual manufactured structure trip permits may be purchased from any Driver and Motor Vehicle Services Division (DMV) field office or from any manufactured structure trip permit agent designated by DMV pursuant to OAR 735-140-0135;

(b) Dealers and transporters who choose to issue trip permits shall purchase them in advance as provided in OAR 735-150-0090.

(3) Prior to issuance of a manufactured structure trip permit, proof must be obtained showing that required taxes have been paid. This includes any taxes which are due, or which will become due during the current tax year. Proof may include such things as a Department of Revenue Form 113, or a letter signed by the assessor and the tax collector indicating required taxes have been paid. This does not apply to manufactured structures being moved from a situs outside of Oregon to this state, or through this state.

(4) Manufactured structure trip permits shall be issued for a reasonable number of days to allow movement of the manufactured structure to its intended destination.

(5) Manufactured structure trip permits cover a single move of a manufactured structure from one situs as shown on the permit.

(6) Each manufactured structure trip permit shall show:

(a) A complete description of the manufactured structure including year model, make and vehicle identification number;

(b) The registration plate number (bearing an "X" prefix) if one has been issued;

(c) The previous owner's name;

(d) The new owner's name;

(e) The location of the place from which the manufactured structure was moved;

(f) The street address or map and tax lot number of the place to which the manufactured structure is to be moved; and

(g) The number of the applicable building or land use permits required by the local government having jurisdiction over the destination of the manufactured structure, including but not necessarily limited to a storage permit number, an installation permit number or a development permit number. Information required by this subsection may be furnished by either the owner of the manufactured structure or the person who is transporting the manufactured structure.

(7) The requirements of subsection (6)(g) of this rule need not be met if:

(a) The person moving the manufactured structure is transporting the manufactured structure from the place of manufacture, from a dealer or from private property to the place of business of a manufactured structure dealer holding a certificate under ORS 822.020; or

(b) The manufactured structure is being moved out of the state.

(8) Manufactured structure trip permits shall be displayed on and be clearly visible from the rear of the manufactured structure.

(9) Trip permits shall not be issued to manufactured structures which are exempt from title and registration under ORS 820.510.

Stat. Auth.: ORS 184.616, ORS 84.619 ORS 90.110 & ORS 803.600
Stats. Implemented: ORS 308.865, ORS 803.600, ORS 820.510 & ORS 820.560
Hist.: MV 19-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988, Renumbered from 735-075-0150; MV 46-1989, f. & cert. ef. 10-16-89; DMV 4-2001(Temp), f. & cert. ef. 2-16-01 thru 8-14-01; DMV 12-2001, f. & cert. ef. 7-18-01

DIVISION 150

VEHICLE DEALERS

735-150-0000

Purpose

(1) The definitions and rules contained in OAR chapter 735 pertaining to vehicle related businesses are provided as an aid to more effective regulation of those businesses consistent with the requirements of the **Motor Vehicle Code**.

(2) The provisions of the **Motor Vehicle Code** concerning the regulation of vehicle related businesses shall be liberally construed within the rules contained in OAR chapter 735 so that the public safety and welfare is protected.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010 & ORS 822.035

Stats. Implemented: ORS 822.035

Hist.: MV 7-1987, f. & ef. 7-13-87

735-150-0005

Oregon Dealer Advisory Committee

(1) The Oregon Dealer Advisory Committee is established pursuant to ORS 802.370.

(2) The committee shall have membership as follows:

(a) Two new vehicle dealers;

(b) Two used vehicle dealers;

(c) Two wreckers;

(d) Two members representing the interests of the general public;

(e) One realtor who is a licensed vehicle dealer;

(f) One manufactured housing dealer;

(g) One recreational vehicle dealer;

(h) One member representing dealership office management interests; and

(i) One member representing auto auctions.

(3) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall annually designate one member as chair of the committee.

(4) Members terms of appointment shall be three years. However, members serve at the pleasure of the director and a member shall be replaced if he or she misses two consecutive meetings without good cause. The initial date of expiration of terms shall be staggered in a manner determined by DMV.

(5) DMV shall seek the recommendation of the trade or professional association generally recognized to represent a membership category prior to appointing a committee member but shall not be limited to the association's recommendation.

(6) DMV shall 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 the dealer on probation;

(c) Levying a civil penalty against a dealer under ORS 822.009(1); or

(d) Taking disciplinary action against a wrecker under OAR 735-152-0050 to revoke, suspend or place the wrecker on probation.

(7) DMV may consult with the committee by mail, by telephone or at a meeting of the committee, however, DMV shall not be bound by the recommendations. DMV shall give members seven days from the date of a mailing to respond to proposed actions, except to those instances when DMV determines continued operation of the business creates a serious danger to the public's health or safety.

Stat. Auth.: ORS 184.616 & ORS 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

735-150-0010

Definitions

As used in this division and ORS Chapter 822:

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

(2) "Dealer" as used in ORS 822.005, includes but is not limited to a broker, wholesaler, auctioneer or any other person acting independently, who, for a fee, commission or any other form of direct or indirect compensation:

(a) Engages in the wholesale or retail purchase, sale or lease-with-option to purchase of vehicles;

(b) Arranges for the exchange of vehicles by providing services which bring together potential buyers or sellers; or

(c) Displays vehicles for sale.

(3) "Dealership," "place of business" or "business location" means a location within the State of Oregon at which a dealer engages in those business activities specified in section (2) of this rule.

(4) "Location," "main business location" or "main dealership":

(a) Means a location identified and listed as the dealer's main business location on the original business certificate application;

(b) Includes:

(A) The location in a manufactured home park of a single manufactured structure consigned to the vehicle dealer by the owner who has not released ownership to the dealer;

(B) All lots within a manufactured home park which contain manufactured structures which are being displayed and/or sold by the vehicle dealer.

(5) "Additional (or supplemental) place of business" or "additional (or supplemental) location":

(a) Means a location, other than those exempted under OAR 735-150-0020, that is 500 feet or more beyond any other business location of the dealer, and which is operated under the same name as the main business location;

(b) Includes all lots within a manufactured home park which contain manufactured structures which are being displayed and/or sold by the vehicle dealer.

(6) "Employee" means:

(a) A person over whom the dealer exercises control typically associated with an employer, including but not limited to:

(A) Determining the frequency, method and amount of compensation;

(B) Determining if the work is continuous or intermittent;

(C) Determining the hours or frequency of work; or

(D) The ability to terminate the relationship.

(b) A real estate salesperson whose license is held by a broker, for the purpose of sale of mobile homes or manufactured housing only.

(7) "Normal business hours" means all times during which a dealer engages in those business activities specified in section (2) of this rule.

(8) "Certified dealer" means a dealer who holds a valid dealer certificate issued under ORS Chapter 822.

(9) "Designated dealer" means a certified dealer who has been authorized to act as an agent of DMV under OAR 735-150-0040.

(10) When used with reference to a person's business certificate:

(a) "Revoked" means to declare the business certificate void and terminated, with a new certificate obtainable only as permitted by law;

(b) "Canceled" means the same as "revoked";

(c) "Probation" means a specified period of time during which the person must demonstrate the ability to conduct business or perform activities as an agent of DMV in the manner required by law or rule; and

(d) "Suspension" means the temporary withdrawal for a specified period of time of the person's authority to conduct business or perform activities as an agent of DMV.

(11) As used in ORS 822.070, the phrase "Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles" means the purchasing of wrecked, damaged, destroyed or any other salvage vehicles as defined in OAR 735-152-0000 for the purpose of making assembled, reconstructed or substantially altered motor vehicles. It does not mean the purchasing of already assembled, reconstructed or substantially altered motor vehicles.

(12) "Rebuilder" means a person engaged in conducting a "vehicle rebuilding business."

(13) A person is engaged in a "vehicle rebuilding business" if, acting independently for a fee, commission or any other form of direct or indirect compensation, that person:

(a) Buys wrecked, dismantled, disassembled, substantially altered or any other salvage vehicle for the purpose of making assembled, reconstructed or substantially altered motor vehicles;

(b) Sells or deals in motor vehicles which that person has assembled, reconstructed or substantially altered;

(c) Assembles, reconstructs or substantially alters motor vehicles; or

(d) Assembles, reconstructs or substantially alters motor vehicles for another person who:

(A) Buys wrecked, dismantled, disassembled, substantially altered or any other salvage vehicles for the purpose of assembling, reconstructing or substantially altering vehicles; or

(B) Sells or deals in such vehicles.

(14) "Person" means an individual, partnership, corporation, association or any other business organization if the context in which the term is used also could include these organizational forms.

(15) "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.

(16) "Advertise" means to offer a vehicle for sale, or make public that a person is conducting business as a vehicle dealer, through the use of any type of periodical, newspaper, flyer or any other means. Placement of any type of sign or markings on or about any vehicle, for the purpose of selling the vehicle, shall be considered advertising.

(17) "Warning" means a documented oral warning to the principal of a dealership or a correction notice issued to the principal or an employee of the dealership.

(18) "Licensed" or "licensed dealer" means a dealer who holds a valid dealer certificate issued under ORS Chapter 822.

(19) As used in ORS Chapter 822 and OAR 735-150-0050, "good faith effort" means a dealer has taken all reasonable steps available to transfer title to a customer:

(a) DMV shall determine 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 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 shall not accept a good faith effort by a dealer if, prior to sale of the vehicle, the dealer knows or reasonably should know that title transfer could not be completed within 30 days.

(20) In determining the existence of "circumstances beyond the dealer's control" as used in ORS Chapter 822 and OAR 735-150-0050, DMV may consider:

(a) Documentation the dealer can provide showing the dealer could not get the title from another state; and

(b) The prior security interest holder was paid off by the dealer, and the delay was because the security interest holder did not release title.

(21) "Date of sale," or use of similar terms to indicate the day the sale occurred, means the date on which the purchaser takes pos-

session of the vehicle except for those sales made by auto auction companies which only allow licensed dealers as purchasers. In the instance of these auto auctions, "date of sale" means, for purposes of consignor payment under ORS 822.060(1)(d), the date upon which the consigning party delivers the necessary title documents to the purchasing dealer.

(22) "License" or "supplemental license" means a vehicle dealer certificate issued pursuant to ORS 822.020 or a supplemental certificate issued pursuant to ORS 822.040.

(23) "Manufactured home park" means a park as defined in ORS 446.003(27).

Stat. Auth.: ORS 184.616 & ORS 822.035

Stats. Implemented: ORS 822.005 - ORS 822.080

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

735-150-0015

Dealer Applications

Application for a vehicle dealer certificate issued by DMV under ORS 822.020 or for a renewal of a certificate under ORS 822.040 shall be:

(1) On a form prescribed and furnished by DMV; and

(2) Signed by the applicant.

Stat. Auth.: ORS 184.616, ORS 802.012, ORS 822.025 & ORS 822.040

Stats. Implemented: ORS 802.012, ORS 822.025 & ORS 822.040

Hist.: DMV 4-1996, f. & cert. ef. 7-26-96

735-150-0020

Exemptions

(1) A person renting or leasing space to a licensed Oregon dealer who has listed the location being rented or leased on an application for business certificate or supplemental business certificate filed with DMV 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 days or less:

(a) Except as otherwise provided in this section and ORS 822.015(9), a dealer participating in the display must be a licensed dealer;

(b) A person who only rents or leases space to a participating dealer does not need a dealer license;

(c) A licensed dealer does not need a supplemental certificate.

(3) The exemption in ORS 822.015(2) shall 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 shall 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 licensed Oregon dealer and makes vehicles for the dealer with whom the person is employed; or

(b) Is engaged solely in the repair of damaged vehicles at the request of the registered owners of the vehicles.

(5) An employee of a dealer as defined by OAR 735-150-0010(6) is not required to have his or her own dealer's license in order to buy or sell vehicles for the dealer.

(6) No dealer license is required for the sale or display of a manufactured structure where an exemption from title has been granted under ORS 820.510.

(7) A licensed Oregon dealer does not need a supplemental license 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 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 shall not exceed three days.

Stat. Auth.: ORS 184.616, ORS 822.015 & ORS 822.035

Stats. Implemented: ORS 822.015

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

735-150-0024

Investigation of Certificate Applications

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall 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 shall 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) DMV may investigate any principal of the applicant dealer 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 dealers, vehicle registration, title transfers, stolen vehicles or odometer fraud or tampering within the five years preceding the date of the application; or

(c) Is currently subject to any type of administrative action relating to vehicle dealers, vehicle registration, title transfer, stolen vehicles or odometer fraud or tampering in a jurisdiction outside of the state of Oregon.

Stat. Auth.: ORS 802.010, ORS 802.030, ORS 803.600, ORS 803.625, ORS 820.500 - ORS 820.580, ORS 821.060 - ORS 821.090, ORS 822.020 - ORS 822.030, ORS 822.035, ORS 822.050, ORS 822.115, ORS 822.125 & ORS 822.130

Stats. Implemented: ORS 822.035

Hist.: MV 8-1991, f. & cert. ef. 7-19-91

735-150-0027

Refusal to Issue and Probationary Status of Vehicle Dealer Certificate

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall 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 shall 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 shall not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer was within one 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 shall 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 shall expire and attain regular status on the same date the probation period ends for the other dealership.

(4) DMV shall not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the dealership:

(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 this state or any jurisdiction outside of the state of Oregon of any violation of that jurisdiction's statutes relating to vehicle dealers, vehicle registration, title transfers, stolen vehicles or odometer fraud or tampering within the five years preceding the date of the application; or

(c) Is currently subject to any type of administrative penalty that prohibits the principal from conducting business as a dealer and relates to vehicle dealers, vehicle registration, title transfers, stolen vehicles or odometer fraud or tampering in a jurisdiction outside of the state of Oregon.

(5) DMV shall not issue an original or renewal vehicle dealers 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 shall not issue an original business certificate to any applicant whose business name is identical to an existing dealer name or so similar as to cause a person to not readily distinguish the dealerships. DMV shall take geographic location into account when determining the ability to distinguish between two similarly named dealerships.

(7) DMV shall retain the fees paid with an application to cover processing costs when it refuses to issue a certificate.

(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 the DMV, Hearings Case Management Unit, 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).

(10) When the applicant fails to file a timely request for a hearing, the charges shall be deemed admitted, the applicant 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 & ORS 822.035

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

735-150-0030

Dealer Location Regulations

(1) Except as permitted under section (2) of this rule, each business location established by a dealer shall:

(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) Have displayed an exterior sign permanently affixed to the land or a building which identifies the dealership by the name shown on the dealer's business certificate, with letters clearly visible to the major avenue of traffic; and

(d) Have displayed, in a publicly accessible and conspicuous manner, the dealer's business certificate.

(2) Any dealer wanting an exemption from all or part of the requirements of subsections (1)(a), (b) or (c) of this rule:

(a) Shall submit a written request for the exemption(s) to DMV documenting the reason(s) for the exemption(s) being sought;

(b) May be subject to an on-site inspection by DMV to determine the validity of the request and to seek reasonable alternatives to the exemption(s) requested; and

(c) Shall comply with any reasonable alternatives determined by DMV to substantially meet the requirements for which the exemption was requested.

(3) All locations from which a rebuilder conducts any activities specified in the definition of a "vehicle rebuilding business" found in OAR 735-150-0010 shall be listed on an application for business certificate as either the main business location or a supplemental business location. Each location shall comply with the requirements of section (1) of this rule unless granted an exemption under section (2) of this rule.

(4) The following apply to dealer locations, unless exempt under OAR 735-150-0020:

(a) A dealer shall have a certificate or supplemental certificate for each location where the dealer sells vehicles 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 new location;

(b) A dealer who moves a place of business or changes the business name must obtain a corrected dealer certificate before business can be conducted; and

(c) A dealer shall have a certificate or supplemental certificate for each location where a manufactured structure is displayed for sale when the structure is owned by the dealer and is part of the inventory held for sale in the dealer's stock. "Inventory" may include, but is not limited to, a manufactured structure delivered from the manufacturer or a manufactured structure which the dealer has purchased or taken in on trade.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 822.025, ORS 822.035 & ORS 822.040

Stats. Implemented: ORS 822.020, ORS 822.035 & ORS 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

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, shall be maintained for a period of two 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 shall be maintained for two 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, the 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 shall 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 electronically. 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.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 822.035 & ORS 822.042

Stats. Implemented: ORS 822.035, ORS 822.042 & ORS 822.045

Hist.: DMV 10-2001, f. & cert. ef. 6-14-01

735-150-0040

Designation of Dealers as Agents

(1) Persons issued a dealer certificate under ORS 822.020 are designated as agents of DMV as provided in Section 10, Chapter 583, Oregon Laws 1997.

(2) All snowmobile dealers and Class I and Class III all-terrain vehicle dealers shall be designated as agents of DMV as provided in Section 10, Chapter 583, Oregon Laws 1997.

(3) DMV may place sanctions against the dealer's status as an agent of DMV as provided in OAR 735-150-0120.

(4) Agents of DMV may:

(a) Accept applications and fees for titles and registrations of vehicles they sell, as provided in OAR 735-150-0050;

(b) 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;

(c) Issue temporary registration permits for unregistered vehicles they sell, as provided in ORS 803.625 and OAR 735-150-0060;

(d) Issue trip permits for unregistered vehicles they sell, as provided in OAR 735-150-0070 and 735-150-0080;

(e) Issue mobile home trip permits for mobile homes they sell or transport, as provided in OAR 735-140-0140 and 735-150-0090; and

(f) Accept applications and fees for transfers of registration plates as provided in OAR 735-150-0060(2).

(5) A dealer who, on behalf of a purchaser, accepts application, collects fees and obtains registration plates, stickers and temporary registration, as applicable, shall ensure prompt delivery of the items obtained to the purchaser. Such dealer shall, within five working days of receipt from DMV:

(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 for the purchaser to pick up the items at the dealership.

(6) The dealer shall 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 shall, 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 shall only charge document, title transfer and registration fees in the amount authorized by Oregon Revised Statutes and Oregon Administrative Rule when collecting such fees on behalf of DMV.

(9) A dealer shall not accept applications and fees for the transfer of plates under subsection (4)(f) of this rule if the dealer determines that the plates that 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, ORS 184.619, ORS 803.530, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & Ch. 583, OL 1997

Stats. Implemented: ORS 821.060, ORS 821.080, ORS 822.005, ORS 822.080 & Ch. 583, OL 1997

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

735-150-0050

Acceptance and Submission of Application and Fees

(1) Dealers who accept an application and collect fees to title or register a vehicle shall submit them to DMV within 30 days of the date of transfer of title or interest in the vehicle. This shall include all fees and documents needed to obtain title and, if applicable, registration on behalf of the purchaser.

(2) If fees are not collected, a dealer shall within 25 days of the date of transfer of title or interest 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 and Class I ATV dealers shall collect fees and submit title and registration applications for purchasers of snowmobiles and Class I ATVs which they sell and which are sub-

ject to Oregon title and registration. 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 shall 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 shall 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 shall consider unreasonably extended to be 45 days from date of sale. The statement shall inform the purchaser of their right to file complaints against the dealer with DMV if the delay goes beyond 45 days from date of purchase.

(5) Dealers shall maintain records that show they have complied 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 shall promptly refund any collected fee that is discovered to exceed the proper charge.

Stat. Auth.: ORS 184.616, ORS 802.030, ORS 821.060, ORS 821.080, ORS 822.035 & ORS 822.042

Stats. Implemented: ORS 802.030, ORS 821.060, ORS 821.080, ORS 822.035 & ORS 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

735-150-0055

Dealer Title and Registration Processing Fee; Inspection

(1) Dealers issued a dealer certificate under ORS 822.020, who also process title and registration documents and collect the required fees for submission to DMV on behalf of a buyer or lessee, may charge a buyer or lessee a fee for this service not to exceed \$50.

(2) DMV may inspect dealer records for compliance with the fee limitation described in section (1) of this rule.

(3) In the course of an inspection performed pursuant to section (2) of this rule or any other provision of law, DMV may refer to the Department of Justice, or any other appropriate governmental body, any potential violation of any state or federal statutes or rules found by, or made known to DMV. This includes, but is not limited to, any violation of the Oregon Vehicle Code or ORS 646.605 to 646.652.

(4) Dealers shall implement reasonable procedures to ensure that the fee authorized by this rule does not exceed \$50 and that instances where fees have exceeded this amount are promptly discovered and refunded to the consumer.

Stat. Auth.: ORS 184.616, ORS 814.619, 822.009, ORS 822.035, ORS 822.045 & Sec. 1, Ch. 141, OL 2001

Stat. Implemented: ORS 822.009, ORS 822.030, ORS 822.035, ORS 822.045 & Sec. 1, Ch. 141, OL 2001

Hist.: DMV 22-2001(Temp), f. & cert. ef. 10-17-01 thru 4-14-02

735-150-0060

Issuance of Temporary Registration Permits

(1) A designated dealer who collects all applicable fees and applications as provided in ORS 803.625 and OAR 735-150-0040(4)(c) and who will be submitting the combined title and registration application to DMV on behalf of an owner may issue a temporary registration permit as provided in ORS 803.625 for a vehicle or camper sold by a dealer. "Applicable fees" may include title, registration and plate transfer fees.

(2) A designated dealer shall not issue a temporary registration permit under section (1) of this rule to a person who is not a resident of or domiciled in Oregon.

(3) A temporary registration permit shall 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 (5)(b) if the vehicle must be taken to a DEQ inspection station.

(4) Temporary registration permits shall be obtained in bulk from the Salem headquarters office of DMV at no charge. Designated dealers shall not charge a fee for the issuance of a temporary registration permit.

(5)(a) Temporary registration permits shall be valid for a period of time established by DMV and not exceeding 120 days from the date they are issued or until plates and/or stickers are received from DMV and placed on the vehicle, whichever is the shorter period of time. The expiration date of a temporary permit shall not be extended by a designated dealer nor may the dealer issue a subsequent permit to extend the period of time provided by the initial permit;

(b) DMV shall establish a policy to inform dealers about DMV changes in validity time of temporary registration permits. DMV shall notify dealers and field offices of any change and any change shall pertain to all temporary registration permits issued by all dealers.

(6) Designated dealers shall comply with the following requirements when issuing temporary registration permits:

(a) Record the following information on each copy of a temporary registration permit:

(A) Name, address, driver license number and state of issuance of the person(s) registering as the owner of the vehicle. This information shall not appear on the copy of the permit to be displayed in the vehicle;

(B) Complete vehicle description, including year, make, body style and identification number;

(C) A written signature of the employee who issued the permit. Initials are not acceptable;

(D) Date information (effective date, expiration, etc., as shown on the permit form). The permit shall not be issued for a period exceeding 120 days, including effective date;

(E) Dealer certificate number; and

(F) The title fee and registration fee collected on behalf of DMV.

(b) Attach DMV's copy of the temporary registration permit to the application for title and registration and submit the two documents together to DMV in accordance with OAR 735-150-0050.

(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.

(7) To be valid, the owner's copy of a temporary registration permit shall be affixed to the vehicle for which it was issued as specified by DMV.

(8) The remaining copy of the temporary registration permit shall be left attached in the permit book. Books containing these copies shall be returned to DMV for auditing as soon as the last permit in a book is issued.

(9) Alteration of the date information, ownership information or vehicle description shall void a temporary registration permit.

(10) When a temporary registration permit is voided for any reason, the owner's copy and DMV's copy of the permit, together with a written explanation about why the permit was voided, shall be left in the book and shall be forwarded to DMV. If either copy of the permit is unavailable for submitting to DMV, the explanation shall state why the copy is unavailable.

(11) Except as permitted in section (12) of this rule, temporary registration permits (or books of permits) shall not be loaned to another dealer or person nor issued for vehicles sold by another dealer or individual.

(12) 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 located in another city or state who actually made the retail sale of the vehicle to the purchaser may issue a temporary registration permit for the vehicle as provided by this rule. The application and supporting documents shall 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, ORS 184.619, ORS 803.625, ORS 822.035 & OL 1997, Ch. 583, Sec. 10

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

735-150-0070

When Trip Permits May Be Issued by Dealers

(1) For the convenience of the motoring public, designated dealers may issue light vehicle trip permits and recreational vehicle trip permits as provided for in ORS 803.600 for vehicles (other than manufactured structures) which they sell when:

(a) The new owner of a vehicle is not subject to Oregon registration requirements, but needs to operate the vehicle over Oregon highways to leave the state;

(b) The vehicle is to be driven to a Department of Environmental Quality (DEQ) inspection station to get a certificate of compliance prior to applying for registration;

(c) The vehicle is to be driven to a DMV office or a law enforcement agency for a vehicle identification number inspection; or

(d) The dealer will not be submitting the application for transfer of title and registration on behalf of the new owner and the purchaser must operate the vehicle until they can get to a DMV office.

(2) Trip permits shall be purchased in bulk in advance from DMV's Salem headquarters office.

(3) A designated dealer may charge 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. Fees received by a designated dealer for trip permits may be retained by the dealer.

(4) Each trip permit shall be valid for ten days, including the date it is issued. For example, a permit issued November 3 at 5 p.m. shall expire at midnight on November 12.

(5) The number of trip permits that may be issued by a dealer is limited as provided in ORS 803.600 and as follows:

(a) No more than one trip permit may be issued under the conditions specified in subsections (1)(a), (c), or (d) of this rule; and

(b) No more than three trip permits may be issued under subsection (1)(b) of this rule for a vehicle to be driven to a DEQ inspection station to get a certificate of compliance prior to applying for registration.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 803.600 & ORS 822.035

Stats. Implemented: ORS 803.600

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

735-150-0080

Requirements for Issuing Trip Permits

Designated dealers shall comply with the following requirements when issuing trip permits:

(1) Each copy of the trip permit shall 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 shall only be issued to the owner. This information shall not appear on the copy of the permit to be displayed in the vehicle;

(b) If the person does not have a driver license or if the permit is issued to a business, nothing will be displayed on the purchaser's 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) Complete vehicle description, including year, make, body style and identification number;

(d) A written signature of the employee who issued the permit. This shall include at least the person's full first and last name;

(e) Dealer certificate number;

(f) Date information (e.g., effective date, expiration) as shown on the trip permit form; and

(g) The dealer shall have the purchaser sign the certification stating:

(A) The purchaser has not purchased light vehicle trip permits exceeding 120 days for the vehicle within the last 12 months;

(B) Recreational vehicle trip permits have not been granted for the vehicle that together, and including the permit applied for, exceed a maximum of 10 days of operation in any 12-month period;

(C) The insurance company name and policy number for the motor vehicle; and

(D) 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.

(2) Except as specified in section (3) of this rule, DMV's copy of the trip permit shall be forwarded to DMV within five days of the date the permit was issued.

(3) Alteration of the effective date, ownership information or vehicle description shall void a trip permit. When a trip permit is voided for any reason, the purchaser's copy and DMV's copy of the permit and a written explanation about why the permit was voided shall be forwarded 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 shall state why the copy is unavailable.

(4) The remaining copy of the trip permit shall be retained by the dealer.

(5) Trip permits (or books of permits) shall 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, ORS 184.619 & ORS 803.600 -ORS 803.650

Stats. Implemented: ORS 803.600

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

735-150-0090

Bulk Sales of Manufactured Structure Trip Permits to Designated Dealers and Certified Transporters

(1) Dealers designated as agents under OAR 735-150-0040 may issue trip permits for manufactured structures they sell or transport.

(2) Transporters issued a certificate under ORS 822.310 shall be designated under this rule as agents of DMV for the purpose of issuing manufactured structure trip permits.

(3) Transporters may issue manufactured structure trip permits for manufactured structures they transport.

(4) Dealers and transporters who choose to issue manufactured structure trip permits shall purchase them in bulk in advance from the Salem Headquarters Office of DMV.

(5) Dealers and transporters may charge and retain a fee for manufactured structure trip permits issued by them. The fee shall not exceed the fee for a manufactured structure trip permit under ORS 803.645.

(6) Manufactured structure trip permits shall not be loaned to another dealer, transporter, or individual.

(7) Unissued and intact manufactured structure trip permits may be returned to DMV for refund of the fees paid.

(8) Dealers and transporters shall comply with the procedures and requirements of ORS 803.600, 820.560, and OAR 735-140-0140 when issuing and completing manufactured structure trip permits.

(9) When a manufactured structure trip permit is voided for any reason, the purchaser's copy and all DMV copies shall be returned to DMV headquarters. A written explanation of why the permit was voided shall be submitted with the copies of the permit. A refund of the prepaid permit fee will be made if DMV is satisfied that the permit was properly voided and not used to transport a manufactured structure.

(10) A dealer or transporter who issues a manufactured structure trip permit shall:

(a) Place the permit on the manufactured structure as required by OAR 735-140-0140; and

(b) Forward a copy of the manufactured structure trip permit with applicable proof of taxes to DMV within 10 days of the movement of the manufactured structure (ORS 820.560).

Stat. Auth.: ORS 184.616, ORS 802.030, ORS 803.600 & ORS 820.560
 Stats. Implemented: ORS 802.030, ORS 803.600, ORS 820.560 & ORS 822.310
 Hist.: MV 20-1986, f. & ef. 12-1-86; Administrative Renumbering 3-1988,
 Renumbered from 735-071-0220; DMV 2-1996, f. & cert. ef. 4-18-96

735-150-0100

Immediate Suspension of Dealer Certificate

(1) A person shall be subject to immediate suspension of their dealer's certificate for a period not to exceed three years if the person creates a serious danger to the public health and safety, including but not limited to lost or diminished economic interest, security interest or ownership interest in vehicles by the public through the transaction of business with the person.

(2) Any person whose dealer's certificate has been suspended under this rule shall be granted an opportunity for a contested case hearing as provided in the Oregon Administrative Procedures Act (ORS Chapter 183), except that the provisions of OAR 735-150-0120(7) shall apply.

Stat. Auth.: ORS 183.430, ORS 802.010, ORS 802.030, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 822.080

Stats. Implemented: ORS 822.035

Hist.: MV 7-1987, f. & ef. 7-13-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0110; MV 8-1991, f. & cert. ef. 7-19-91; MV 19-1992, f. 12-23-92, cert. ef. 1-1-93

735-150-0105

Late Renewal of Dealer License

(1) A dealer who submits an application to renew a dealer license within 15 days of the expiration of the previous year's license and the application contains a surety bond and any required insurance showing coverage for the dealer continuously since the expiration date of the license, shall be considered to have made timely application.

(2) A dealer who submits an application to renew a dealer license more than 15 days after the expiration of the previous year's license, but within 45 days of its expiration and the application contains a surety bond and any required insurance showing coverage for the dealer continuously since the expiration date of the license, shall be considered to have made timely application, but shall be assessed a civil penalty of \$100 in addition to the renewal fee.

(3) A dealer who continues business operations and has not submitted an application to renew a dealer license within 45 days after the expiration of the previous year's license shall be considered in violation of OAR 735-150-0150 and subject to civil penalties as established by OAR 735-150-0170.

(4) A dealer may avoid the penalties in sections (2) and (3) of this rule by showing, either administratively or at hearing:

- (a) The dealer took action to renew the license on a date reasonably calculated to complete the process in a timely manner; and
- (b) The delay in renewal was beyond the dealer's ability to foresee and control.

Stat. Auth.: ORS 183.430, ORS 802.010, ORS 802.030, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 822.080

Stats. Implemented: ORS 822.040

Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93

735-150-0110

Dealer Offenses Subject to Penalty

In addition to any other penalties provided by law, a dealer shall be subject to the penalties in OAR 735-150-0120, 735-150-0130 and 735-150-0140 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 dealership in order to engage in any activity that would subject that person to dealer certification and regulatory requirements.

(2) Fails to submit all taxes or fees due this state, another state or a political subdivision 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 subsection 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 which 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 the standards set by the State of Oregon or the Federal Government pertaining to the construction or safety of motor homes, trailers, campers or mobile structures.

(6) Buys, sells, receives, disposes of, conceals or has in the dealer's possession any vehicle or component from which the 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 provisions of federal law, state statute or administrative rule 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 or 822.050.

(10) Issues temporary registration permits in lieu of trip permits to a person not domiciled in Oregon or otherwise not subject to or eligible for Oregon registration.

(11) Fails to notify DMV within seven days that a vehicle has been transferred to the dealer.

(12) Fails to immediately remove registration plates from vehicles registered in other jurisdictions and which are in the dealer's inventory. (The dealer may retain the plates until the vehicle is sold.)

(13) 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.)

(14) Completes or allows an employee to complete a Vehicle Identification Number Inspection Certificate without physically inspecting the vehicle for its vehicle identification number.

(15) Sells vehicles of a type not authorized by the dealer's certificate.

(16) Fails to comply with any provisions of ORS 822.060 through 822.065 concerning consignment sales.

(17) Makes a false statement of material fact in the application for a dealer's certificate or in any data attached to the application, or in any investigation by DMV.

(18) Becomes convicted of a crime which is directly related to the business of a vehicle dealer.

(19) Assists a person who does not possess a dealer business certificate in operating as a vehicle dealer by selling more than five vehicles in any 60-day period to a person without proof the person is either:

- (a) The holder of a valid dealer business certificate; or
- (b) Purchasing the vehicles for purposes other than dealer activity.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 822.080
 Stats. Implemented: ORS 822.050

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

735-150-0120

Sanctions

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall impose sanctions when it determines a dealer has violated provisions of the **Motor Vehicle Code** or rules promulgated by DMV relating to:

- (a) The operation of a vehicle dealership; or
 - (b) Vehicle title and registration.
- (2) Sanctions imposed may be against any or all of the following:
- (a) The dealer's business certificate;
 - (b) The dealer's status as an agent of the DMV; or
 - (c) An owner, partner, corporate officer or other principal of the dealership.
- (3) Factors DMV shall consider in determining the sanctions to impose shall include, but are not limited to:
- (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 sanctions or civil penalties imposed by DMV against the dealer or principals of the dealership.
- (4) DMV shall determine the steps to take or sanctions to impose when it determines violations have occurred or are occurring. These may include one or more of the following:
- (a) Verbal or written warnings, including correction notices;
 - (b) Probation under conditions set by DMV of the dealer's status as an agent of DMV for up to one year;
 - (c) Suspension of the dealer's status as an agent of DMV for up to one year;
 - (d) Permanent revocation of the dealer's status as an agent of DMV;
 - (e) Probation under conditions set by DMV, of privileges granted by the dealer's business certificate for up to one year;
 - (f) Suspension of the dealer's business certificate and the right to apply for a certificate for up to three years;
 - (g) Permanent revocation of the dealer's business certificate;
 - (h) Cancellation of the dealer's business certificate;
 - (i) Suspension of the right of a principal of a dealership to apply for a certificate for a different vehicle-related business or in a different business name for up to three years;
 - (j) Permanent revocation of the right of a principal of a dealership to apply for a certificate for a different vehicle-related business or in a different business name;
 - (k) Immediate suspension as provided in OAR 735-150-0100.
- (5) A dealer or principal whose business 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 shall be submitted in writing to, and received by, the DMV Hearings Case Management Unit within 20 days of the date of the notice of penalty. A hearing request received in a timely manner shall result in a withdrawal of the penalty, pending the outcome of the hearing.
- (7) In the instance of an immediate suspension as provided by OAR 735-150-0100, a dealer's request for a hearing shall be submitted in writing to, and received by, the DMV Hearings Case Management Unit within 90 days of the date of notice of suspension. A hearing request received in a timely manner shall not result in a withdrawal of the suspension, pending the outcome of the hearing.
- (8) In the instance of an immediate cancellation as provided by ORS 822.050(2) or (3) for failure to satisfy the bond or insurance requirements established by ORS 822.030 and 822.033, a dealer's request for a hearing shall be submitted in writing to, and received by, the DMV Hearings Case Management Unit within 90 days of the date of the notice of cancellation. A hearing request received in a timely manner shall 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 shall have defaulted, waived the right to a hearing and DMV's file shall then constitute the record of the case.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.430, ORS 802.010, ORS 802.030, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 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

735-150-0130

Civil Penalty Consideration, Licensed Dealer

(1) Any person, issued a certificate under ORS 822.020, who violates any provision of the Oregon Vehicle Code or any rule adopted by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) relating to the sale of vehicles, vehicle titling or vehicle registration, shall 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 shall 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 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 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) Prior to the issuance of a final order, DMV may reassess the civil penalty amount and may agree to payment of an amount other 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.
- (4) DMV shall suspend or refuse to renew or issue a certificate to any person who fails to pay a civil penalty.

Stat. Auth.: ORS 183.430, ORS 184.616, ORS 184.619, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 822.080

Stats. Implemented: ORS 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 8-2000, f. & cert. ef. 8-10-00

735-150-0140

Schedule of Violation Penalties, Licensed Dealer

DMV adopts this civil penalty schedule. As used in this rule, an offense will be considered a second or subsequent offense if the dealer was notified orally or in writing within the three previous years of the occurrence of the same or a substantially similar offense:

(1) Failure to comply with any provision of OAR 735-150-0030(1) through (3), concerning dealer location regulations:

- (a) For first offense: warning;
- (b) For second offense: \$250;
- (c) For third offense: \$500;
- (d) For fourth and subsequent offense: \$1,000.

(2) Failure to comply with the provisions of OAR 735-150-0030(4) concerning dealer location regulations:

- (a) For first offense: \$500;
- (b) For second and subsequent offense: \$1,000.

(3) Failure to comply with OAR 735-150-0040(5), (6) or (7), concerning the delivery of registration items:

- (a) For first offense: warning;
- (b) For second offense: \$250;
- (c) For third offense: \$500;
- (d) For fourth and subsequent offense: \$1,000.

(4) Failure to comply with any provision of OAR 735-150-0050, concerning acceptance and submission of title or registration application and fees:

- (a) For first offense: warning;
- (b) For second offense: \$250;
- (c) For third offense: \$500;
- (d) For fourth and subsequent offense: \$1,000.

(5) Failure to comply with any provision of OAR 735-150-0060, concerning issuance of temporary registration permits:

- (a) For first offense: warning;

- (b) For second offense: \$50;
- (c) For third offense: \$100;
- (d) For fourth and subsequent offense: \$250.
- (6) Failure to comply with any provision of OAR 735-150-0070, concerning trip permits issued by dealers:
 - (a) For first offense: warning;
 - (b) For second offense: \$50;
 - (c) For third offense: \$100;
 - (d) For fourth and subsequent offense: \$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 first offense: warning;
 - (b) For second offense: \$50;
 - (c) For third offense: \$100;
 - (d) For fourth and subsequent offense: \$250.
- (8) Failure to comply with any provision of OAR 735-150-0090, concerning issuing of manufactured structure trip permits:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (9) 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 first offense: \$250;
 - (b) For second offense: \$500;
 - (c) For third and subsequent offense: \$1,000.
- (10) Failure to comply with OAR 735-150-0110(2), concerning failing to submit all taxes and fees:
 - (a) For first offense: \$250;
 - (b) For second offense: \$500;
 - (c) For third and subsequent offense: \$1,000.
- (11) Failure to comply with OAR 735-150-0110(3), concerning a dealer who signs a name or allows any other person to sign a name of an owner, security interest holder or lessor on title or transfer documents without a Power of Attorney:
 - (a) For first offense: \$500;
 - (b) For second and subsequent offense: \$1,000.
- (12) Failure to comply with OAR 735-150-0110(4), concerning dealing in stolen vehicles. For first and subsequent offense: \$1,000.
- (13) Failure to comply with OAR 735-150-0110(6), concerning altered vehicle identification numbers:
 - (a) For first offense: \$1,000;
 - (b) For second and subsequent offense: \$1,000.
- (14) Failure to comply with OAR 735-150-0110(7), concerning odometers, except violations of ORS 815.410, 815.420 and 815.430:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (15) Violation of ORS 815.410, 815.420 and 815.430, concerning odometer tampering and notices: For first and subsequent offense: \$1,000.
- (16) Failure to comply with OAR 735-150-0110(8), concerning fraudulent title or registration documents. For first and subsequent offense: \$1,000.
- (17) Failure to comply with OAR 735-150-0110(9), concerning committing any offense in ORS 822.045 or 822.050, except violations specified elsewhere in this rule:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (18) Violation of ORS 822.045(1)(d), (e) or (k): For first and subsequent offense: \$1,000.
- (19) Failure to comply with OAR 735-150-0110(10), concerning issuance of temporary registration permits to persons not eligible:
 - (a) For first offense: warning;

- (b) For second offense: \$250;
- (c) For third offense: \$500;
- (d) For fourth and subsequent offense: \$1,000.
- (20) Failure to comply with OAR 735-150-0110(11), concerning failure to notify DMV of a vehicle transferred to the dealer:
 - (a) For first offense: warning;
 - (b) For second offense: \$50;
 - (c) For third offense: \$100;
 - (d) For fourth offense: \$250;
 - (e) For fifth and subsequent offense: \$500.
- (21) Failure to comply with OAR 735-150-0110(12), concerning failure to remove foreign registration plates:
 - (a) For first offense: warning;
 - (b) For second offense: \$50;
 - (c) For third offense: \$100;
 - (d) For fourth and subsequent offense: \$250.
- (22) Failure to comply with OAR 735-150-0110(13), concerning failure to destroy foreign registration plates:
 - (a) For first offense: warning;
 - (b) For second offense: \$50;
 - (c) For third offense: \$100;
 - (d) For fourth and subsequent offense: \$250.
- (23) Failure to comply with OAR 735-150-0110(14), concerning the physical inspection of vehicle identification numbers:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (24) Failure to comply with OAR 735-150-0110(15), concerning sale of vehicles of a type not allowed:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (25) Failure to comply with ORS 822.060(1)(a), (b), (c), (e), (h) or (i), concerning consignment sales:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (26) Violations of ORS 822.060(1)(d), (f) or (g) or 822.065, concerning consignment sales:
 - (a) For first offense: \$500;
 - (b) For second and subsequent offense: \$1,000.
- (27) Failure to comply with OAR 735-150-0110(17) concerning making a false statement of material fact:
 - (a) For first offense: \$500;
 - (b) For second and subsequent offense: \$1,000.
- (28) Any violation of the Oregon Vehicle Code or OAR chapter 735 not otherwise classified in this rule:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (29) Violation of OAR 735-150-0110(19) concerning assisting a person who does not possess a valid dealer certificate in the operation of a vehicle dealer business:
 - (a) For first offense: warning;
 - (b) For second offense: \$500;
 - (c) For third and subsequent offense: \$1,000.
- (30) Violations of ORS 822.047(1), (2) or (3) concerning requirements of broker contract:
 - (a) For first offense: warning;
 - (b) For second offense: \$250;
 - (c) For third offense: \$500;
 - (d) For fourth and subsequent offense: \$1,000.
- (31) Violations of OAR 735-150-0035 concerning dealer records:
 - (a) For first offense: warning;
 - (b) For second offense: \$500;
 - (c) For third and subsequent offenses: \$1,000.

(32) Violation of OAR 735-150-0055 concerning charging document processing fees for submitting titles and registrations to DMV:

- (a) For first offense: \$250;
- (b) For second offense: \$500;
- (c) For third and subsequent offenses: \$1000.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 184.619, ORS 822.009 & ORS 822.035
Stats. Implemented.: ORS 822.009, ORS 822.035 & ORS 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

735-150-0160

Civil Penalty Considerations, Unlicensed Dealer

Any person not issued a certificate under ORS 822.020, who violates ORS 822.005(1) or (2), or any rule adopted by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) relating to sale of vehicles, shall incur, in addition to any other penalty provided by law, a civil penalty in the amount of not more than \$5,000 for each violation:

(1) DMV shall assess penalties in accordance with the schedule set forth in OAR 735-150-0170.

(2) The Business Regulation Program 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 section shall 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 may refuse to issue a certificate under ORS 822.020 to any person who fails to pay a civil penalty.

Stat. Auth.: ORS 184.616 & ORS 822.005
Stats. Implemented: ORS 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

735-150-0170

Schedule of Violation Penalties, Unlicensed Dealer

DMV adopts the civil penalty schedule set forth in this rule for violations by a person acting as a vehicle dealer without a certificate.

(1) Violation of ORS 822.005(1), concerning acting as a vehicle dealer without a certificate:

- (a) For first offense: \$2,500;
- (b) For second and subsequent offense: \$5,000.

(2) DMV shall reduce the penalty for the first violation in subsection (1)(a) of this rule to \$1,500 if:

- (a) The person meets all requirements and is issued a certificate under ORS 822.020 within 45 days of assessment of the penalty; or
- (b) A hearing is requested and held in accordance with ORS Chapter 183, and within 45 days of issuance of a final order upholding the penalty, the person is issued a certificate under ORS 822.020.

(3) To request a reduction in the civil penalty amount allowed under this rule, the person shall submit a written request to DMV's Business Regulation Program.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 822.005
Stats. Implemented: ORS 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

735-150-0180

Mobile Home, Notice of Civil Action

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) may post a notice of civil action upon any mobile home held in the inventory of a person acting as a vehicle dealer without a certificate. The notice shall contain the following information:

(a) The person offering the mobile home for sale currently is the subject of a judicial or administrative proceeding to determine if the seller is licensed as required by ORS 822.005(1);

(b) That it may be unlawful for the person to sell the mobile home to a retail customer;

(c) Any person removing the posted notice without authorization by DMV is subject to a civil penalty not to exceed \$5,000; and

(d) An address and telephone number of DMV office where further information may be obtained.

(2) DMV shall authorize removal of the notice of civil action within ten days after any one of the following:

(a) The dismissal or termination of the proceeding used to determine if the seller is licensed as required by ORS 822.005;

(b) The person has fully paid a civil penalty and is otherwise in compliance with the provisions of ORS Chapter 822; or

(c) DMV finds that the mobile home is being offered by a person who holds a valid vehicle dealer certificate or a person exempted by the provisions of ORS 822.015 from the certification requirement.

(3) DMV shall levy a civil penalty against any person who unlawfully removes a notice posted in accordance with section (1) of this rule. DMV shall consider the provisions of OAR 735-150-0160(1) in levying the civil penalty.

Stat. Auth.: ORS 802.010 & Ch. 822 & Ch. 541, OL 1991
Stats. Implemented: ORS 822.075
Hist.: MV 22-1991, f. 9-27-91, cert. ef. 9-29-91

735-150-0190

Contested Case Hearings and Disposition

The hearing officer presiding at the contested case hearing may not adjust the amount of a civil penalty assessed by DMV under OAR 735-150-0130. The hearing officer may adjust the amount of a civil penalty assessed by DMV under OAR 735-150-0160, but only as provided in OAR 735-150-0170.

Stat. Auth.: ORS 183.430, ORS 184.616, ORS 184.619, ORS 802.370, ORS 803.600, ORS 803.625, ORS 821.060, ORS 821.080 & ORS 822.005 - ORS 822.080
Stats. Implemented: ORS 183.415
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

DIVISION 152

WRECKERS

735-152-0000

Definitions

As used in this division:

(1) "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.

(2) "Salvage Pool" means a person providing a storage service for salvage vehicles, and who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles for other owners. This definition shall also apply to insurance companies who store and display salvage vehicles for sale. Salvage pools shall be considered wreckers and shall comply with all requirements of ORS 822.100 through 822.150, and the rules in this division applicable to wreckers.

(3) "Salvage Vehicle" means a vehicle which has sustained damages sufficient to require it to be rebuilt or disassembled for parts. This definition shall not apply to: Campers, boats, canopies, mopeds, travel trailers, motorcycles, snowmobiles or Class I or III all-terrain vehicles or vehicles whose unloaded weight exceeds 8,000 pounds.

(4) "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.

(5) "Wrecker" means a person who buys, sells or deals in vehicles, for the purpose of wrecking, dismantling, disassembling or altering the form of any vehicle, including the crushing, compacting or shredding of any vehicle. This definition does not apply to persons exempted under ORS 801.026 or 822.105.

(6) "Vehicle Business" includes vehicle dealers as defined in OAR 735-150-0010(1), towing businesses, vehicle transporters, salvage pools and repair shops.

Stat. Auth.: ORS 802.010, ORS 822.115, ORS 822.125, ORS 822.130, Ch. 822, Ch. 820, OL 1991 & Ch. 873, OL 1991
Stats. Implemented: ORS 822.125
Hist.: MV 7-1987, f. & ef. 7-13-87; MV 10-1991, f. & cert. ef. 8-20-91

735-152-0005

Wrecker Applications

Application for a wrecker certificate issued by DMV under ORS 822.110 or for a renewal of a certificate under ORS 822.125 shall be:

- (1) On a form prescribed and furnished by DMV; and
- (2) Signed by the applicant.

Stat. Auth.: ORS 184.616, ORS 802.012, ORS 822.115 & ORS 822.125
Stats. Implemented: ORS 802.012, ORS 822.115 & ORS 822.125
Hist.: DMV 4-1996, f. & cert. ef. 7-26-96

735-152-0010

Investigation of Wrecker Applications

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall investigate applications for original or renewal wrecker 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 shall investigate all applications for original or renewal wrecker certificates 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, ORS 822.115, ORS 822.125, ORS 822.130 & Ch. 820 & Ch. 873, OL 1991
Stats. Implemented: ORS 822.115 - ORS 822.125
Hist.: MV 10-1991, f. & cert. ef. 8-20-91

735-152-0020

Refusal to Issue and Probationary Status of Wrecker Certificate

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall not issue an original or renewal wrecker certificate to any applicant when it determines the application is incomplete or information contained in the application is false.

(2) DMV shall not issue an original or renewal wrecker certificate to any applicant when it determines 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.

(3) DMV shall issue an original or renewal wrecker certificate on a probationary basis when it determines a principal of the applicant is financially or operationally involved with any other vehicle business whose certificate or right to apply for a certificate is currently on probation. The probationary status of the new certificate shall expire and attain regular status on the same date the probation period ends for the other vehicle business.

(4) DMV shall not issue an original or renewal wrecker certificate to any applicant when it determines 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.

(5) DMV shall not issue an original or renewal wrecker 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 152.

(6) DMV shall retain the fees paid with an application to cover processing costs when it refuses to issue a certificate.

(7) An applicant who has been refused issuance of a wrecker certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(8) The refused applicant's request for a hearing shall be submitted in writing to and received by DMV, Hearings Case Management Unit, within 60 days of the date of the refusal. A hearing request received in a timely manner shall not result in issuance of a certificate, pending the outcome of the hearing. In case of a refusal to renew, the wrecker 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).

(9) When the applicant fails to file a timely request for hearing, the charges shall be considered to have been admitted, the applicant 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 802.010, ORS 822.115, ORS 822.125, ORS 822.130 & Ch. 820 & Ch. 873, OL 1991
Stats. Implemented: ORS 822.125
Hist.: MV 10-1991, f. & cert. ef. 8-20-91

735-152-0030

Denial or Suspension of Wrecker Certificate

(1) A person shall be subject to denial or suspension of the person's wrecker certificate:

(a) For a period of one year if the person makes a false statement of material fact in the application for a wrecker's certificate, in any data attached to the application or in any investigation by the Driver and Motor Vehicle Services Branch of the Department of Transportation;

(b) For a period of three years if the person has been convicted of a crime directly related to the business of a wrecker.

(2) A person shall be subject to immediate suspension of the person's wrecker certificate for a period not to exceed three years if the person creates a serious danger to the public health and safety, including but not limited to lost or diminished economic interest, security interest or ownership interest in vehicles by the public through the transaction of business with the person.

(3) Any person whose wrecker's certificate has been denied or suspended under this rule shall be granted an opportunity for a contested case hearing as provided in the Oregon Administrative Procedures Act (ORS Chapter 183), except that the provisions of ORS 183.430(2) shall apply if the certificate has been suspended pursuant to section (2) of this rule.

Stat. Auth.: ORS 802.010, ORS 822.115, ORS 822.125, ORS 822.130 & Ch. 820 & Ch. 873, OL 1991
Stats. Implemented: ORS 822.125 & ORS 822.145
Hist.: MV 10-1991, f. & cert. ef. 8-20-91

735-152-0040

Wrecker Offenses Subject to Penalty

In addition to any other penalties provided by law, a wrecker shall be subject to OAR 735-152-0050 if the wrecker:

(1) Allows a person who is not an employee of the wrecker to imply or represent an affiliation with the wrecker business in order to engage in any activity that would subject that person to wrecker certification and regulatory requirements.

(2) Fails to submit all taxes or fees due this state, another state or a political subdivision in connection with the sale or transfer of a vehicle.

(3) Forges or allows a person employed by the wrecker business to forge a signature of the owner, security interest holder, or a lessor on a certificate of title or any motor vehicle document used by DMV in the transfer of title.

(4) Purchases, sells, disposes of or has possession of any vehicle or part of a vehicle which the wrecker knows or has reason to believe has been stolen or appropriated without the owner's consent.

(5) Buys, sells, receives, disposes of, conceals or has possession of any vehicle or component from which the identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle.

(6) Prints, produces or causes to be printed or produced any certificate of title or registration without authority, or holds or uses any such certificate or assignment knowing that it has been printed or produced without authority.

Stat. Auth.: ORS 802.010, ORS 822.115, ORS 822.125, ORS 822.130 & Ch. 820 & Ch. 873, OL 1991

Stats. Implemented: ORS 822.125

Hist.: MV 10-1991, f. & cert. ef. 8-20-91

735-152-0050

Penalties for Wrecker Offenses

(1) The Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) shall impose penalties when it determines a wrecker has violated provisions of the **Motor Vehicle Code** or rules promulgated by DMV relating to:

- (a) The operation of a wrecker business;
- (b) Destroyed vehicles;
- (c) Totaled vehicles (effective September 29, 1991);
- (d) Vehicle title and registration; or
- (e) Stolen vehicles.

(2) Penalties imposed may be against either or both of the following:

- (a) The wrecker's business certificate;
- (b) An owner, partner, corporate officer or other principal of the wrecker business.

(3) Factors DMV shall consider in determining the penalty or penalties to impose shall include, but are not limited to:

- (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 penalties imposed by DMV against the wrecker or principals of the wrecker business.

(4) DMV shall determine the steps to take or penalties to impose when it determines violations have occurred or are occurring. These may include one or more of the following:

- (a) Verbal or written warnings, including correction notices;
- (b) Probation under conditions set by DMV, of privileges granted by the wrecker's business certificate for one year;
- (c) Suspension of the wrecker's business certificate and the right to apply for a certificate for up to three years;
- (d) Permanent revocation of the wrecker's business certificate;
- (e) Cancellation of the wrecker's business certificate;
- (f) Suspension of the right of a principal of a wrecker business to apply for a certificate for a different wrecker business or in a different business name for up to three years;
- (g) Permanent revocation of the right of a principal of a wrecker business to apply for a certificate for a different wrecker business or in a different business name;
- (h) Immediate suspension as provided in OAR 735-152-0030.

(5) A wrecker or principal whose business 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 in sections (7) and (8) of this rule, a wrecker's request for a hearing shall be submitted in writing to and received by the DMV Hearings Case Management Unit within 20 days of the date of the notice of penalty. A hearing request received in a timely manner shall result in a withdrawal of the penalty, pending the outcome of the hearing.

(7) In the instance of an immediate suspension as provided by OAR 735-152-0030, a wrecker's request for a hearing shall be submitted in writing to and received by the DMV Hearings Case Management Unit within 90 days of the date of notice of penalty. A hearing request received in a timely manner shall not result in a withdrawal of the penalty, pending the outcome of the hearing.

(8) In the instance of an immediate suspension or cancellation as provided by ORS 822.145(2) for failure to satisfy the bond requirements established by ORS 822.120, a wrecker's request for a hearing shall be submitted in writing and received by the DMV Hearings Case Management Unit within 90 days of the date of notice of cancellation. A hearing request received in a timely manner shall not result in a withdrawal of cancellation, pending the outcome of the hearing.

(9) When the applicant fails to file a timely request for a hearing, the charges shall be deemed admitted, the applicant shall be deemed in default as to those charges, DMV's file shall constitute the record of the case, and the order of DMV shall become final.

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 822.115, ORS 822.125, ORS 822.130 & Ch. 820 & Ch. 873, OL 1991

Stats. Implemented: ORS 822.125

Hist.: MV 10-1991, f. & cert. ef. 8-20-91

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 Branch of the Department of Transportation to indicate staggered registration dates.

Stat. Auth.: ORS 802.010, ORS 822.205 & ORS 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

735-154-0010

Requirements for Towing Business Certificate Application or Renewal

(1) An original certificate application shall be made for each tow or recovery vehicle on a form furnished by the Driver and Motor

Vehicle Services Branch of the Department of Transportation. At the time of original certificate application, a new registration shall be obtained for any tow or recovery vehicle currently registered. Any unused portion of the current registration period shall be refunded, calculated on the number of full months remaining in the registration period.

(2) The certificate and tow or recovery vehicle registration shall expire one year from the last day of the month in which the original application for the certificate was made. Payment of the proper vehicle registration fee and the certificate renewal fee before the date of expiration shall constitute a renewal application and shall be recognized as continued compliance with the requirements certified to by the applicant in the original application.

Stat. Auth.: ORS 802.010, ORS 822.205 & ORS 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

735-154-0020

Conditions

A certificate shall be issued when the following conditions have been met:

(1) A properly completed application, certified by the applicant, has been submitted to and approved by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV).

(2) Proper vehicle registration fees and the certificate fee have been paid to DMV.

(3) There is no evidence the applicant has violated OAR 735-154-0000 through 735-154-0050 or received any applicable conviction relating to the tow or recovery business.

Stat. Auth.: ORS 802.010, ORS 822.205 & ORS 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 735-071-0110; MV 21-1991, f. & cert. ef. 9-18-91

735-154-0030

Transferred or Out-of-State Vehicle

(1) When a motor vehicle operating under authority of a towing business certificate is sold, transferred, wrecked or taken out of service as a tow or recovery vehicle, the certificates, distinctive plates and stickers shall be surrendered to the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV). DMV shall issue a prorated refund on the unused portion of the registration period, upon request, calculated on the number of full months remaining in the registration period. No portion of the certificate fees shall be refunded.

(2) Any new owner of the vehicle apply for an original certificate, distinctive plates and stickers if the vehicle is to be continued in use as a tow or recovery vehicle.

(3) Any vehicle continued in use as other than a tow or recovery vehicle shall be registered as required based upon use or load capacity.

Stat. Auth.: ORS 802.010, ORS 822.205 & ORS 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 735-071-0115; MV 21-1991, f. & cert. ef. 9-18-91

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 Branch 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 822.205 & ORS 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 Branch 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, ORS 822.205 & ORS 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, ORS 802.010, ORS 803.050, ORS 805.200, ORS 822.205, ORS 822.210 & Ch. 551, OL 1991

Stats. Implemented: ORS 801.375 & ORS 803.050

Hist.: MV 30-1991, f. & cert. ef. 12-16-91

DIVISION 158

ABANDONED VEHICLE APPRAISERS

735-158-0000

Regulations Governing Abandoned Vehicle Appraiser Certificates

(1) Failure to maintain any of the requirements of this rule or ORS 819.230 relating to abandoned vehicle appraiser certificates will be cause to deny, revoke, suspend or refuse to renew a certificate under the provisions of ORS 183.430.

(2) For purposes of this rule an Abandoned Vehicle Appraiser Certificate authorizes an individual to appraise abandoned vehicles as provided in ORS 819.110, 819.120, 819.130, and 87.192. The certificate may not be used for any other type of appraisal activity.

(3) An Abandoned Vehicle Appraiser Certificate is not transferable.

(4) The appraiser certificate shall expire two years from the date of issuance provided the certificate has not been suspended under this rule.

(5) The fee for an appraiser certificate shall be \$7 for an original or renewal certificate.

(6) In the event of certificate revocation, suspension or termination there will be no refund of the unused fee portion.

(7) In the event of certificate refusal by the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) the submitted fee will be refunded.

(8) An individual will qualify for an appraiser certificate or certificate renewal provided:

(a) The application has been made on a form furnished by the DMV;

(b) A fee of \$7 has been submitted;

(c) The applicant has 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;

(d) The applications for renewal have been submitted not later than sixty days after the expiration date;

(e) That if a renewal has not been submitted within sixty days after the expiration date, the individual must apply as an original applicant.

(9) An applicant must be able to provide letters, an employment application, or materials from a present or past employer which demonstrate a total of two years of experience in any of the following related fields:

(a) New or used vehicle estimating while employed in a new or used car business;

(b) Repair estimating or insurance estimating in a vehicle body repair business;

(c) Insurance appraisals or estimating performed on claims while employed in the insurance industry;

(d) Operating a vehicle salvage or wrecking yard;

(e) Executing sheriff's bills of sale related to abandoned vehicles.

(10) Other experience may be accepted provided knowledge of vehicle value and appraisal methods can be provided.

Stat. Auth.: ORS 820.010 & ORS 819.230

Stats. Implemented: ORS 819.230

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

DIVISION 160

VEHICLE OPERATOR TRAINING AND INSTRUCTIONS

Driver Training

735-160-0000

Commercial Driver Training School Certificate and Applications

(1) An applicant for an original or renewal commercial driver training school certificate shall:

(a) Make application on Form 6050 furnished by DMV;

(b) Provide release for DMV to obtain a copy of a 10-year criminal history record for an original application or a one-year criminal history record for a renewal application;

(c) Submit the bond as required by ORS 822.505 on a form established by DMV;

(d) Submit proof of insurance as required by ORS 822.510. The form shall include a statement that the insurance will remain in effect, during the term of the Commercial Driver Training School Certificate unless 10 days prior written notice of cancellation is given to DMV; and

(e) Submit proper fees to DMV.

(2) Failure to maintain any of the qualifications as prescribed under OAR 735-160-0010 will be cause for suspending or revoking the certificate of any school under the provisions of OAR 735-160-0055.

(3) A certificate for a commercial driver training school is not transferable to any other school.

(4) No school certificate shall be issued for a commercial driver training school where the place of business is or will be in violation of OAR 735-160-0020(1) through (4).

Stat. Auth.: ORS 184.616 & ORS 822.515

Stats. Implemented: ORS 822.510 & 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 735-051-0005; MV 2-1993, f. & cert. ef. 2-16-93; DMV 8-1996, f. & cert. ef. 8-15-96

735-160-0005

Definitions

The following definitions apply to terms in OAR 735-160-0000 and 735-160-0010 through 735-160-0150.

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

(2) A "Commercial Driver Training School" or "School" is a private or publicly owned driver training facility in Oregon that has been certified by DMV to provide practical, in-vehicle instruction to student drivers.

(3) "Commercial Driver Training School Operator" or "Operator" means a person who holds a commercial driver training school certificate issued by DMV to operate a commercial driver training school.

(4) "Commercial Driver Training Instructor" or "Instructor" means a person who is presently engaged as an employee or independent contractor by the school.

(5) "Student Driver" means a person who is presently enrolled as a student with a commercial driver training school.

(6) "Practical In-Vehicle Instruction" means driver training given in a motor vehicle, including but not limited to, operation upon a highway or premises open to the public on this state.

(7) "Dual Control" means an additional brake, clutch (if applicable) and mirrors operated or used by the instructor from the front, passenger seat.

(8) "Major Traffic Offense" means a conviction of any state law or city ordinance pertaining to:

(a) Reckless driving as defined in ORS 811.140;

(b) Driving while under the influence of intoxicants, as defined in ORS 813.010;

(c) Failure to perform the duties of a driver involved in an accident or collision as defined in ORS 811.700 or 811.705;

(d) Criminal driving while suspended or revoked as defined under ORS 811.182; or

(e) Fleeing or attempting to elude a police officer while driving a motor vehicle, as defined in ORS 811.540.

(9) "Code of Ethics and Rules of Conduct Violation" means a violation of those principles, standards and practices as provided by OAR 735-160-0130.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

735-160-0010

Commercial Driver Training School Operator Qualifications

No person shall be issued a certificate or be allowed to renew or maintain a commercial driver training school certificate unless the person applying:

- (1) Is at least 21 years of age;
- (2) Has not been convicted any of the following:
 - (a) A major traffic offense within the last five years;
 - (b) Kidnapping;
 - (c) Any sex offense, including compelling or promoting prostitution with or without force;
 - (d) A crime involving violence, threat of violence or theft. This shall not apply if the applicant has not been in custody, or has not been on probation, parole or post prison supervision within the five years immediately preceding the application for a commercial driver training school certificate; or
 - (e) A crime relating to activity in drugs or alcoholic beverages. This shall not apply if applicant has not been in custody, or has not been on probation, parole or post prison supervision within the five years immediately preceding the application for a commercial driver training school certificate.
- (3) Has not been revoked as a habitual offender under ORS 809.600 or received an equivalent violation in another state. This shall not apply if driving privileges are restored under ORS 809.660 or in another state at least five years prior to the application for a commercial driver training school certificate.
- (4) Has not enrolled or participated in a DUII diversion or Step 3 Driver Improvement Program in the three years immediately preceding the application for a commercial driver training school certificate.
- (5) Has not had driving privileges suspended, revoked, or canceled in the two years immediately preceding the application for a commercial driver training school certificate.

(6) Employs only commercial driver training instructors who meet the requirements or qualifications set forth in OAR 735-160-0090 and who meet the responsibilities set forth in OAR 735-160-0095.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

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 735-051-0010; MV 2-1993, f. & cert. ef. 2-16-93

735-160-0015

Commercial Driver Training School Operator Responsibilities

- (1) A commercial driver training school operator shall:
 - (a) Notify DMV in writing within ten days of any change in:
 - (A) The commercial driver training school address;
 - (B) The location where the training is conducted; or
 - (C) The status of an instructor employed or under contract with the school.
 - (b) Notify DMV in writing within ten days if:
 - (A) The commercial driver training school goes out of business;
 - (B) The operator does not meet or maintain the qualifications set forth in OAR 735-160-0010;
 - (C) A commercial driver training instructor discontinues employment with the commercial driver training school; or
 - (D) The commercial driver training instructor does not meet or maintain the qualifications and requirements set forth in OAR 735-160-0080 and 735-160-0095.
 - (c) Allow DMV to conduct random examinations, inspections and audits without prior notice; and
 - (d) Correct any deficiencies identified by DMV during an inspection within 30 days of the date of the notice.
- (2) A commercial driver training school operator shall not:
 - (a) Falsify any records;
 - (b) Permit a person who has not been certified by DMV to train student drivers;
 - (c) Transfer a commercial driver training school certificate;
 - (d) Knowingly be involved in assisting anyone to obtain a driver license fraudulently, or otherwise act in a manner whereby an immediate danger to public safety exists;
 - (e) Violate any provision established by OAR 735-160-0020;
 - (f) Permit a commercial driver training instructor to:

(A) Train any student driver who has not enrolled with the school's training program;

(B) Train any student driver not in accordance with OAR 735-160-0050;

(C) Train any student driver not in possession of a valid driver license or instruction permit; or

(D) Train any student driver on a course used by the DMV for testing applicants for an Oregon driver license.

(g) Commit a Code of Ethics and Rules of Conduct Violation.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

735-160-0020

Location and Advertising

(1) No commercial driver training school shall be located closer than 1,500 feet to any office of the DMV, unless it was established before January 1, 1970, or was established at a time prior to DMV constructing an office at that location.

(2) No school shall be conducted from a liquor store, a bar, tent, temporary stand, temporary address or through the exclusive facilities of a telephone answering service.

(3) Every school shall maintain a place of business with at least one permanent structure, regularly occupied by the school, within the State of Oregon.

(4) A school shall conform to the following advertising practices:

(A) A school shall not publish, advertise or intimate that a driver license is guaranteed or assured;

(b) A school shall not solicit business or cause business to be solicited on its behalf or display or distribute any advertising material within 1,500 feet of any office of the DMV, unless the location of the school is exempted under section (1) of this rule;

(c) A school may exhibit on forms agreements or on its business premises a sign reading, "**This school is certified by the State of Oregon.**" Any other use of the word "State" in any sign or other advertising medium is prohibited;

(d) A school shall not advertise any address other than the place of business or other facilities approved by DMV;

(e) A school shall not publish or disseminate any advertisement or information that is false, deceptive or misleading or authorize others to do the same; and

(f) A school shall not advertise as any name, combination of names or abbreviation of name, other than the name which appears on the commercial driver training school certificate.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

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

735-160-0030

Commercial Driver Training School Records

(1) Every school shall maintain records of all students and instructors for at least three years. They must be open for inspection by authorized representatives of the DMV during reasonable business hours.

(2) Commercial driver training school records shall include:

(a) The complete name of each student driver trained;

(b) The driver license or instruction permit number and the state that issued the license or permit of each student driver trained; and

(c) The name and certificate number of the commercial driver training instructor.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

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

735-160-0035

Inspection

(1) DMV may periodically inspect all schools to determine compliance with laws and rules pertaining to commercial driver training school and commercial driver training instructor certification

requirements. Schools shall allow DMV to conduct random examinations, inspections or audits without prior notice during regular business hours. An on-site inspection may be conducted once a year.

(2) Periodic inspections may include examination of:

(a) All student driver records for whom driver training was conducted by the school regardless of whether the student driver completed or failed to complete the school's driver training program;

(b) Qualifications of commercial driver training instructors; and

(c) Other items DMV deems necessary to assure that the commercial driver training school meets requirements for maintaining its certificate.

(3) Refusal to permit inspection shall result in suspension of the commercial driver training school certificate.

(4) A DMV representative shall prepare a written report of each inspection. A copy of the DMV representative's report shall be sent to the commercial driver training school.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

735-160-0040

Vehicle Equipment

(1) Motor vehicles owned or leased by a school and used for practical, in-vehicle instruction shall:

(a) Be equipped with dual controls;

(b) Be maintained in good mechanical condition;

(c) Meet the safety equipment standard of the Oregon Vehicle Code;

(d) Be equipped with approved seat belts for both the student driver and the instructor; and

(e) Be equipped with a functional heater and defroster.

(2) Dual controls consist of:

(a) A foot brake control for both the student driver and the instructor, connected either by mechanical or hydraulic means;

(b) At least one mirror on each side of the vehicle, mounted either inside or out, for use of the instructor or the student driver while properly seated and in compliance with the visibility requirements of state law; and

(c) A clutch control connected either by mechanical or hydraulic means if the vehicle is equipped with a manual transmission.

(3) Every vehicle shall be equipped with the following emergency equipment:

(a) Fire extinguisher;

(b) First aid kit; and

(c) Three flares or three approved reflectors.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

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

735-160-0050

Curriculum Standards for Commercial Driver Training School Program

Standards for instruction shall include practical, in-vehicle instruction covering operation of vehicle controls, performing maneuvers required in normal driving under any traffic situation, and in keeping with state motor vehicle regulations and safe driving practices.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

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

735-160-0055

Withdrawal of a Commercial Driver Training School Certificate

(1) DMV shall suspend the commercial driving school certificate of any person who:

(a) Violates a prohibition as established in OAR 735-160-0015(2), except OAR 735-160-0015(2)(g) and those prohibitions subject to subsection (2)(b) of this rule;

(b) Violates any provision of OAR 735-160-0020;

(b) Refuses to permit an inspection as required by OAR 735-160-0035; or

(d) Commits a Code of Ethics and Rules of Conduct Violation as described by OAR 735-160-0130(2)(b), (d) or (e).

(2) DMV shall revoke the commercial driving school certificate of any person who:

(a) Fails to remain in compliance with OAR 735-160-0010(2), (3) or (4);

(b) Does anything prohibited in OAR 735-160-0015(2)(a) or (d) and 735-160-0130(5).

(3) Except as otherwise provided in sections (1) and (2) of this rule, DMV, at its discretion may impose the following sanctions for violation of any of the requirements identified in OAR 735-160-0000, 735-160-0010 through 735-160-0050 and 735-160-0130:

(a) First violation: A warning notice shall be mailed to the commercial driver training school. The operator shall satisfy the requirements within 30 days from the date of the warning notice or the commercial driver training school certificate shall be suspended until such requirement is satisfied;

(b) Second violation: The commercial driver training school certificate shall be suspended for a period of six months;

(c) Third and subsequent violations: The commercial driver training school certificate shall be suspended for a period of one year.

(4) A suspension under section (1) of this rule shall be for the following lengths of time:

(a) First violation: One year;

(b) Second and subsequent violations: Three years.

(5) A revocation under section (2) of this rule shall be for the following lengths of time:

(a) First violation: Five years;

(b) Second and subsequent violation: Ten years.

(6) When DMV intends to suspend or revoke a commercial driver training school certificate, DMV shall:

(a) Notify the commercial driver training school in writing that the suspension or revocation shall be effective within 30 days of the notice; and

(b) Afford the operator an opportunity for a hearing before a representative of DMV in the Oregon County where the violation occurred. The hearing shall be conducted as a contested case in accordance with ORS 183.310 through 183.550.

(7) To request a hearing, the operator shall submit a written request to the DMV, Hearings Case Management Unit, 1905 Lana Ave. NE, Salem, OR 97314. The request shall be received within 20 days of the date of notice of suspension or revocation. The suspension or revocation shall be withdrawn pending the outcome of the hearing.

(8) A revocation under section (2) of this rule shall be immediate. An opportunity for a hearing shall be made available as a provided in ORS 183.430.

(9) When DMV suspends or revokes a commercial driver training school certificate, the school if eligible to reapply for a school certificate, shall meet the requirements identified in OAR 735-160-0000 and 735-160-0010.

(10) When the operator requests a hearing and the hearing officer finds in favor of the petitioner, DMV shall restore the commercial driver training school certificate with no further requirements.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

Commercial Driver Training Instructors

735-160-0080

Original Commercial Driver Training School Instructor Certificate Application

(1) Each applicant for an original commercial driver training school instructor's certificate shall make application on Form 6050A, furnished by DMV.

(2) Any applicant who has not held a valid Oregon Driver's license for at least two consecutive years immediately preceding the date of application for an instructor's license must furnish, with the

person's application, a certified driving record from the state or states in which the person held a driver's license for this period of time.

(3) An applicant for an original commercial driver training instructor's certificate shall provide a release to DMV for a copy of a ten-year criminal history record. This shall not apply if the applicant has supplied a release for a copy of the criminal history record with an application for a commercial driver training school certificate.

(4) In addition to the requirements listed in sections (1) through (3) of this rule, an applicant shall:

(a) Obtain a score of 85 percent or higher on a written examination conducted by an authorized representative of DMV in accordance with OAR 735-160-0100(1);

(b) Obtain a score of 90 percent or higher on a driving test conducted by an authorized representative of DMV in accordance with OAR 735-160-0100(2);

(c) Obtain a physical examination and statement from a licensed physician completed within the six-month period preceding the application, that the applicant is free of any ailment, disease or physical defect(s) that might impair the applicant's ability to drive safely or instruct novice drivers; and

(d) Submit the proper fees to DMV.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 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

735-160-0085

Commercial Driver Training School Instructor Certificate Renewal Application

(1) Each applicant for a renewal commercial driver training school instructor's certificate shall:

(a) Make application on Form 6050A furnished by DMV;

(b) Provide a release for DMV to obtain a copy of a one-year criminal history record;

(c) Have a physical examination and submit a statement from a licensed physician that was completed within the six-month period preceding the application. The statement shall indicate the applicant is free of any ailment, disease or physical defect(s) that might impair the applicant's ability to drive safely or instruct novice drivers; and

(d) Submit the proper fees to DMV.

(2) An applicant for certificate renewal who has not applied for renewal within sixty days after the expiration date of the previous certificate shall meet all of the requirements for an original application.

Stat. Auth.: ORS 184.616 & ORS 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 8-1996, f. & cert. ef. 8-15-96

735-160-0090

Commercial Driver Training Instruction Qualifications

(1) A person shall be certified by DMV as a commercial driver training instructor prior to conducting student driver training.

(2) To be eligible to apply and to maintain eligibility for a commercial driver training instructor certificate, a person shall:

(a) Be an employee of a commercial driver training school that has been issued an Oregon Commercial Driver Training School Certificate, Form 6209;

(b) Be recommended by his or her commercial driver training school operator;

(c) Be at least 21 years of age;

(d) Have held a valid license for a period of two consecutive years immediately preceding the date of application for an instructor's certificate and currently holds a valid Oregon driver license;

(e) Have had no more than two moving violations or one accident, if the person was convicted of an offense relating to the accident, within the two preceding years;

(f) Have had no convictions or revocations as indicated in OAR 735-160-0010(2) or (3);

(g) have had no enrollment, participating or sanctions which resulted in the failure to meet any requirement set forth in OAR 735-160-0010(4) or (5); and

(h) Have had no participation in Step 2 of the Oregon Driver Improvement Program within the last two years immediately preceding the application for a commercial driver training instructor certificate.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 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 735-052-0010; MV 2-1993, f. & cert. ef. 2-16-93

735-160-0095

Commercial Driver Training Instructor Responsibilities

(1) A commercial driver training instructor shall:

(a) Meet and remain in compliance with the eligibility requirements set forth in OAR 735-160-0090;

(b) Conduct student driver training in compliance with OAR 735-160-0050;

(c) Properly complete all forms and applications required by DMV; and

(d) Adhere to those principles, standards and practices required by OAR 735-160-0130.

(2) A commercial driver training instructor shall not:

(a) Conduct practical in-vehicle instruction, if the student driver does not have a valid driver license or instruction permit in his or her possession. A hardship or probationary permit is not considered a valid license for the purposes of this rule;

(b) Falsify any records;

(c) Transfer his or her commercial driver training certificate to any other person;

(d) Knowingly be involved in assisting anyone to obtain a driver license fraudulently, or otherwise act in a manner whereby an immediate danger to public safety exists; or

(e) Commit a Code of Ethics and Rules of Conduct Violation.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

735-160-0100

Commercial Driver Training Instructor Testing

(1) The written examination required by OAR 735-160-0080 for a commercial driver training instructor shall consist of questions dealing with:

(a) The Oregon Vehicle Code;

(b) Safe driving practices;

(c) Operation of motor vehicles; and

(d) Methods of instruction.

(2) The driving test required by OAR 735-160-0080 shall examine the applicant's ability to drive and to instruct others to drive.

(3) Each applicant shall be given a maximum of three opportunities to pass the written examination or the driving test. Those who fail either the examination or the test on the first attempt shall wait at least seven days before taking a second examination or test. Those who fail either the written examination or the driving test on the second attempt shall wait two weeks before taking a third examination or test. Individuals who fail the third examination or test shall wait one year from the date of taking the third examination or test before retaking the series.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 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

735-160-0110

Instructor Certificate Issuance and Replacement

(1) An individual who has met all the requirements of OAR 735-160-0080 through 735-160-0100 shall be issued an instructor's certificate, naming the school where the person is employed.

(2) An instructor shall surrender the certificate to DMV upon changing schools. The instructor shall receive a new license naming the current school, if the instructor still qualifies for a certificate.

(3) An instructor's certificate is not transferable.

(4) DMV shall issue a replacement if the instructor's certificate has been lost, mutilated or destroyed.

(5) To apply for a replacement instructor's certificate, the person shall:

(a) Submit a written request to DMV, Commercial Driving School Program, 1905 Lana Avenue, N.E., Salem, OR 97314; and

(b) Indicate the reason for the replacement.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 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

735-160-0120

Withdrawal of an Instructor Certificate

(1) DMV shall suspend the commercial driving instructor certificate of any person who:

(a) Violates a prohibition as established in OAR 735-160-0095(2)(a); or

(b) Commits a Code of Ethics and Rules of Conduct Violation as described by OAR 735-160-0130(2)(b), (d) or (e).

(2) DMV shall revoke the commercial driving school instructor certificate of any person who does anything prohibited in OAR 735-160-0095(2)(b), (c) or (d) or 735-160-0130(5).

(3) Except as otherwise provided in sections (1) and (2) of this rule, DMV, in its discretion, may impose the following sanctions for violation of any of the requirements identified in OAR 735-160-0080 through 735-160-0100 and 735-160-0130:

(a) First violation: A warning shall be mailed to the commercial driver training instructor. The instructor shall satisfy the requirements within 30 days from the date of the warning notice or the commercial driver training instructor certificate shall be suspended until such requirement is satisfied;

(b) Second violation: The commercial driver training instructor certificate shall be suspended for a period of six months;

(c) Third and subsequent violations: The commercial driver training instructor certificate shall be suspended for a period of one year.

(4) A suspension under section (1) of this rule shall be for the following lengths of time:

(a) First violation: One year;

(b) Second and subsequent violation: Three years.

(5) A revocation under section (2) of this rule shall be for the following lengths of time:

(a) First violation: Five years;

(b) Second and subsequent violation: Ten years.

(6) When DMV intends to suspend or revoke a commercial driver training instructor certificate, DMV shall:

(a) Notify the commercial driver training instructor in writing that the suspension or revocation shall be effective within 30 days of the notice; and

(b) Afford the instructor an opportunity for a hearing before a representative of DMV in the Oregon county where the violation occurred. The hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(7) To request a hearing, the instructor shall submit a written request to the DMV, Hearings Case Management Unit, 1905 Lana Ave. NE, Salem, OR 97314. The request shall be received within 20 days of the date of notice of suspension or revocation. The suspension or revocation shall be withdrawn pending the outcome of the hearing.

(8) A revocation under section (2) of this rule shall be immediate. An opportunity for a hearing shall be made available as provided in ORS 183.430.

(9) When DMV suspends or revokes a commercial driver training instructor certificate, the instructor, if eligible to reapply for an instructor certificate, shall meet the requirements identified in OAR 735-160-0090.

(10) When the instructor requests a hearing and the hearing officer finds in favor of the petitioner, DMV shall restore the commercial driver training instructor certificate with no further requirements.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 2-1993, f. & cert. ef. 2-16-93

735-160-0130

Code of Ethics and Rules of Conduct

(1) Each operator and instructor accepts the responsibilities and requirements of the driver training profession. This person must act in ethical ways when conducting business and training student drivers. In so doing the operator and instructor support the needs of their students, the requirements set forth by DMV and the driver training profession.

(2) To fulfill their obligation to the student driver, the operator and instructor shall agree that it is their duty:

(a) To recognize that student driver training is a position of public trust;

(b) To administer all student driver training without regard to sex, race, creed, age, physical condition, position, influence or appearance;

(c) To exhibit competence and wisdom with decisions involving student drivers. These decisions should reflect seriousness to the individual and importance to society;

(d) To reject all favors from those who are or may be submitting them for person benefits;

(e) To refrain from exploiting professional relationships with any student driver for personal advantage; and

(f) To maintain proper vigilance from unauthorized disclosure of confidential information concerning student drivers or their families.

(3) To fulfill their obligation to DMV, the school operator and instructor shall agree that it is their duty:

(a) To uphold the honor and dignity of the profession by respecting and obeying the law, exemplifying personal integrity and honesty and to expose those who reflect unfavorable upon it to the proper authorities;

(b) To be a model of excellence to the public in personal driving behavior and demonstrate that sincerity by proper driving performance;

(c) To work only by DMV and nationally recognized traffic safety student driver training standards;

(d) To accept responsibility to maintain and uphold educational standards set, by DMV and the traffic safety industry for conducting student driver training; and

(e) To conduct grievances through lawfully established procedures and regulations.

(4) To fulfill their obligations to the profession, the operator and instructor shall agree that it is their duty:

(a) To refrain from the use of personal ideas for prescribed student driver training methods;

(b) To maintain personal appearance, classroom and work area to a professional standard of cleanliness;

(c) To respond to a request for evaluation of a colleague and keep such information confidential as appropriate;

(d) To extend professional courtesies to all members of the profession in the lawful exercise of their rights and responsibilities; and

(e) To abide by the Rules of Conduct.

(5) It shall be the duty of every operator and instructor to comply with the following Rules of Conduct:

(a) There shall be no intentional touching of the breast or sexual or intimate parts of a student driver;

(b) There shall be no encouragement, use of intimidation or permitting a student driver to touch the breast or sexual or other intimate parts of the school operator or instructor;

(c) There shall be no sexual advances either verbal or physical in nature, or requests for sexual favors, directed towards any student driver;

(d) There shall be no unreasonable force used against a student driver, other instructors or parents;

(e) There shall be no use of alcohol or any controlled substance during any driver training activity with student drivers; and

(f) There shall be no falsification of any document or direct misrepresentation related to certification, driver training services or professional duties.

Stat. Auth.: ORS 802.010, ORS 822.515 & ORS 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 2-1993, f. & cert. ef. 2-16-93

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 Branch of the Department of Transportation.

Stat. Auth.: ORS 802.010, ORS 821.150, ORS 821.160 & ORS 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 Branch of the Department of Transportation.

Stat. Auth.: ORS 802.010, ORS 821.150, ORS 821.160 & ORS 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, ORS 821.150, ORS 821.160 & ORS 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 Branch 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, ORS 821.150, ORS 821.160 & ORS 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

Instructors

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 Branch of the Department of Transportation.

Stat. Auth.: ORS 802.010, ORS 821.150, ORS 821.160 & ORS 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, ORS 821.150, ORS 821.160 & ORS 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 Branch 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, ORS 821.150, ORS 821.160 & ORS 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 Branch 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 certification under the provisions of ORS Chapter 183.

Stat. Auth.: ORS 802.010, ORS 821.150, ORS 821.160 & ORS 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

The fees relating to registration for snowmobiles shall be consistent with fees for other vehicles provided for in ORS 803.575 and shall be as follows:

- (1) Issuance of a duplicate or replacement registration card is \$5.
- (2) Issuance of a new registration card under ORS 803.220, indicating a change of address, is \$5.
- (3) Issuance of a replacement registration decal is \$11.
- (4) Issuance of replacement registration stickers under ORS 803.555 is \$11.
- (5) Issuance of both replacement registration decals and replacement registration stickers, when issued at the same time, is \$11.

(6) The fees paid under sections (3), (4), and (5) of this rule include the cost of any duplicate or replacement registration card issued.

Stat. Auth.: ORS 802.010, ORS 803.035, ORS 803.310, ORS 803, ORS 821.060
- ORS 821.090 & Ch. 217 & Ch. 587, OL 1987
Stats. Implemented: ORS 821.080
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0060

735-164-0010

Snowmobiles — Title and Registration Requirements

(1) Unless otherwise exempt, snowmobiles are subject to title and registration requirements as provided by rules of the Driver and Motor Vehicle Services Branch of the Department of Transportation (DMV) and as provided in:

(a) ORS 803.010 through 803.230 relating to titles, except odometer requirements as these vehicles are exempt as provided in OAR 735-028-0010;

(b) ORS 803.300 through 803.455, except ORS 803.370(3) as provided in OAR 735-028-0010, relating to registration;

(c) ORS 803.500 through 803.510, except ORS 803.500(1)(j) and (2), relating to registration cards;

(d) ORS 803.555 through 803.560, relating to registration stickers;

(e) ORS 803.585 and 803.590; and

(f) ORS 803.615 and 803.625 through 803.640, relating to temporary registration permits.

(2) Snowmobiles that are exempt from title and registration requirements are eligible for optional titling and registration as provided by rules of DMV and as provided in ORS 803.035 and 803.310. When titled or registered under this section:

(a) They are subject to the same titling and registration provisions as other snowmobiles required to be titled and registered; and

(b) If neither the title nor the Manufacturer's Certificate of Origin is presented as proof of ownership, except as provided in OAR 735-022-0020(2), DMV shall receive an Oregon Uniform Commercial Code Search as outlined in OAR 735-022-0020.

Stat. Auth.: ORS 802.010, ORS 803.030, ORS 803.035, ORS 803.305, ORS 803.310, ORS 821.060 & ORS 821.080
Stats. Implemented: ORS 821.060 & ORS 821.080
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0070

735-164-0020

Placement of Snowmobile Decal

The registration number assigned to snowmobiles by the Driver and Motor Vehicle Services Branch of the Department of Transportation, as required by ORS 821.080, will be issued in the form of a decal. The decal may be placed anywhere on the left side of the snowmobile where it is visible while being operated, such as the front cowl or rear tunnel.

Stat. Auth.: ORS 802.010 & ORS 821.080
Stats. Implemented: ORS 821.120
Hist.: MV 7-1985, f. 6-14-85, ef. 6-16-85; Administrative Renumbering 3-1988, Renumbered from 735-071-0092

DIVISION 168

ALL-TERRAIN VEHICLE TITLE/REGISTRATION

735-168-0030

Class I ATV Fees Relating to Registration

The fees relating to registration for Class I ATVs shall be consistent with fees for other vehicles provided for in ORS 803.575 and shall be as follows:

(1) Issuance of a duplicate or replacement registration card is \$5.

(2) Issuance of a new registration card under ORS 803.220, indicating a change of address is \$5.

(3) Issuance of a replacement registration decal is \$11.

(4) Issuance of replacement registration stickers under ORS 803.555 is \$11.

(5) Issuance of both replacement registration decals and replacement registration stickers, when issued at the same time is \$11.

(6) The fees paid under sections (3), (4) and (5) of this rule include the cost of any duplicate or replacement registration card issued.

Stat. Auth.: ORS 802.010, ORS 803.035, ORS 803.310, ORS 803, ORS 821.060
- ORS 821.090 & Ch. 217 & Ch. 587, OL 1987
Stats. Implemented: ORS 821.080
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0030

735-168-0040

Class I ATVs — Title and Registration Requirements

(1) Unless otherwise exempt, Class I ATVs are subject to title and registration requirements as provided by rules of DMV and as provided in:

(a) ORS 803.010 through 803.230 relating to titles, except odometer requirements as these vehicles are exempt as provided in OAR 735-028-0010;

(b) ORS 803.300 through 803.455, except ORS 803.370(3) as provided in OAR 735-028-0010, relating to registration;

(c) ORS 803.500 through 803.510, except ORS 803.500(5), relating to registration cards;

(d) ORS 803.555 through 803.560; relating to registration stickers;

(e) ORS 803.585 relating to registration fees; and

(f) ORS 803.615, 803.625 through 803.640, and 803.655, relating to temporary registration permits.

(2) Class I ATVs that are exempt from title and registration requirements are eligible for optional titling and registration as provided in ORS 803.035 and 803.310. When titled or registered under this section:

(a) They are subject to the same titling and registration provisions as other Class I ATVs required to be titled and registered; and

(b) If neither the title nor the Manufacturer's Certificate of Origin is presented as proof of ownership, except as provided in section (2) of OAR 735-022-0020, DMV shall receive an Oregon Uniform Commercial Code Search as outlined in OAR 735-022-0020.

Stat. Auth.: ORS 184.616 & ORS 803.035
Stats. Implemented: ORS 821.060, ORS 821.070, ORS 821.080 & ORS 821.090
Hist.: MV 30-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-120-0040; DMV 1-1997, f. & cert. ef. 1-17-97

735-168-0070

Class III ATVs — Title Requirements

Class III ATVs shall be eligible for optional titling provisions under ORS 803.035. When titled under this section, if neither the title nor the Manufacturer's Certificate of Origin is presented as proof of ownership, DMV shall receive an Oregon Uniform Commercial Code Search as outlined in OAR 735-022-0020.

Stat. Auth.: ORS 184.616 & ORS 803.035
Stats. Implemented: ORS 803.035
Hist.: MV 41-1989, f. & cert. ef. 10-3-89; DMV 1-1997, f. & cert. ef. 1-17-97

DIVISION 170

FUEL LICENSES AND RECORDS

735-170-0000

Definitions

(1) To "Import" means to bring motor vehicle fuel or aircraft fuel into the State of Oregon by means of your own truck vehicle, aircraft, container, or otherwise, excluding only fuel imported in the fuel tank of your truck, aircraft, or other vehicle and ultimately used only as fuel for the propulsion of said vehicle or aircraft.

(2) "Cause to be Imported" means to have motor vehicle fuel or aircraft fuel brought into the state at your order, request, or solicitation.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010
Stats. Implemented: ORS 319.010 thru ORS 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

735-170-0010

Records Required

Every licensed dealer shall maintain and keep at least the following:

(1) Stock summary showing monthly totals for the gallons of motor vehicle fuel or aircraft fuel handled within the State of Oregon with an analysis as to inventories, receipts, sales, use, transfers, and loss or gain.

(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. Sales invoice forms shall be approved by the Financial Services Branch of the Department of Transportation (Branch) and shall include at least the following information:

(a) Date of sale or delivery;

(b) Name of place or storage facility from which sale or delivery is made if the vendor has more than one branch or if the origin point is different from the mailing address;

(c) Name of licensed dealer making the sale or delivery;

(d) All invoices shall separately state and describe to the satisfaction of the Branch the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Branch are maintained;

(e) Name and address of the purchaser and delivery point if different than the address;

(f) The gallons of motor vehicle fuel or aircraft fuel sold;

(g) When motor vehicle fuel or aircraft fuel is sold to a person who claims to be entitled to a refund of the tax, the invoice must show no corrections or erasures; and

(h) Where the storage facility or sale point is located near the state border and where sales therefrom are made to customers residing both within and without the State of Oregon, the invoice shall clearly show the place and state where the licensed dealer actually made delivery to the customer.

(4) A record showing all withdrawals of motor vehicle fuel or aircraft fuel from storage for use by the licensed dealer. Such record shall be summarized into monthly totals and shall show separately the number of gallons used for non-highway purposes and the number of gallons used in highway vehicles. Records shall also be maintained showing the total number of miles traveled each month and the total number of gallons of fuel used (segregated as to fuel withdrawn from licensee's bulk storage and fuel received from other sources) by each highway vehicle. Such records are to be kept in the accounting office where the periodical tax audit is to be made and must cover all distributing locations which are operated under the dealer license, whether such distributing locations are operated by employees of the licensee or by commission agents. In addition, individual fueling records, including purchase invoices, when fuel for vehicles is obtained from sources other than licensee's bulk storage, shall be kept and made available for audit when requested.

(5) A physical inventory of motor vehicle fuel and aircraft fuel stocks shall be taken at least at the end of each calendar month and preserved for audit purposes.

(6) All required records shall be summarized into calendar month totals and shall be centralized in the accounting office where the periodical tax audit is to be made.

(7) If at any time the auditor for the state is required to go outside the State of Oregon in order to examine the licensee's records, the licensee shall reimburse the state for travel expenses, including transportation, meals, and lodging costs, incurred by said auditor.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.390 & ORS 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

735-170-0020

Tax Report Forms

(1) Every dealer must prepare a tax report which completely summarizes the number of gallons of motor vehicle fuel or aircraft

fuel sold, distributed, or used in the State of Oregon each month. Tax report forms to be used are the:

(a) Signed Motor Vehicle Fuel and Aircraft Fuel License Tax Report, Form 1302 and supporting detail schedules 1, 2, 3, 4, 5, 6, 7, 8;

(b) Schedules A, B, C, D; and

(c) The Stock Summary schedule.

(2) The following forms are available for preparing detail schedules:

(a) Form 1303 is to be used in preparing the Stock Summary schedule;

(b) Form 1304 is a multiple use form to be used in preparing the detail schedule of receipts 1, 2, 3, and 4;

(c) Form 1305 is a multiple use form to be used in preparing the schedule of disbursements 5, 6, 7, and 8;

(d) Form 1306 is a multiple use form to be used in preparing schedules A, C and D; and

(e) Form 1309 is to be used in preparing schedule B.

(3) Only the signed report, Form 1302, and such other of the detail schedules as are necessary to completely explain the various entries to the report are required to be submitted each month. Machine tabulated data will also be accepted where a great amount of detail is involved.

(4) A separate set of forms shall be prepared by or for each division or other accounting territory of the licensee with a summarized or consolidated set of forms prepared by the reporting office of the licensee covering all distribution within Oregon.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.390 & ORS 319.400

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

735-170-0030

Tax Report Preparation

(1) The Motor Vehicle Fuel and Aircraft Fuel License Tax Report, Form 1302, shall be completed, signed and accompanied by such supporting detail schedules as are necessary to explain all entries on lines 1 to 4 and 6 to 10.

(2) Stock Summary Schedule, Form 1303, shall summarize the total number of gallons of motor vehicle fuel or aircraft fuel handled within Oregon. Line 16 of this schedule shall include all motor vehicle fuel or aircraft fuel shipments which are consigned to customers at some point outside of Oregon and handled as stock transfers to other states in the records of the reporting licensee. Line 16 shall not include such transactions when the customers and destinations are in Oregon and the shipments originate outside the state. These shall be included in Schedule 3 of the report. Line 16 shall also include all motor vehicle fuel or aircraft fuel delivered to retail service stations or bulk storage tanks which are connected by means of pipe lines with retail service pumps that are used to fuel motor vehicles, even though such service stations or bulk tanks may be owned and operated by the licensed dealer.

(3) Schedule 1, Form 1304, shall state the number of gallons of motor vehicle fuel and aircraft fuel acquired in Oregon on an Oregon tax paid to supplier basis.

(4) Schedule 2, Form 1304, shall state the number of gallons of motor vehicle fuel and aircraft fuel acquired in Oregon with the Oregon tax not paid to supplier.

(5) Schedule 3, Form 1304, shall state the net number of gallons of motor vehicle fuel and aircraft fuel sold or distributed from storage facilities, distributing stations, refineries, etc., located outside of Oregon and imported or for importation into the state. Enter on this schedule all sales to Oregon customers which are made directly from storage facilities or distributing plants located in other states, also all sales made from delivery equipment or carriers operating out of supply points located outside of Oregon. Where the customer takes possession of the fuel outside of Oregon and completes the act of importation, and where the laws of the other state preclude the licensee from reporting the transaction as an export sale, the transaction shall be reported on Schedule 3 and exemption from the tax claimed on Schedule D.

(6) Schedule 4, Form 1304, shall state the number of gallons of motor vehicle fuel and aircraft fuel imported into Oregon tax free storage.

(7) Schedule 5, Form 1305, shall state the number of gallons of motor vehicle fuel and aircraft fuel sold or distributed in Oregon from Oregon storage facilities or distributing stations and subject to Oregon tax.

(8) Schedule 6, Form 1305, shall state the total number of gallons of motor vehicle fuel or aircraft fuel sold or distributed ex-tax to Oregon licensed dealers:

(a) Use this schedule for reporting all sales or deliveries of motor vehicle fuel or aircraft fuel to Oregon licensed dealers or upon which the state tax is not charged. Shipments destined for points outside of Oregon should also be included on this schedule; and

(b) A separate total for each licensed dealer shall be shown and shall be supported by detail set out on supporting Schedule 6, Form 1305, which is required to be submitted in duplicate.

(9) Schedule 7, Form 1305, shall summarize the number of gallons of motor vehicle fuel or aircraft fuel sold or distributed from storage facilities or locations located within the State of Oregon and exported or sold for exportation by the purchaser in individual quantities of 500 gallons or less. This schedule shall also be used to show separately product transfers from storage facilities or distributing stations located within the State of Oregon and exported to other states, territories, or countries.

(a) Use this schedule to claim tax exemption for fuel exported and delivered to customers at destinations outside of Oregon;

(b) Use this schedule to claim tax exemption for fuel sold by a dealer when:

(A) The fuel is sold in individual quantities of 500 gallons or less;

(B) The fuel is sold for export by the purchaser in containers other than the fuel tank of a motor vehicle; and

(C) The dealer is licensed in and must remit the applicable taxes to the state, territory, or country of destination.

(c) A separate total for each state, territory, or country shall be shown and shall be supported by detail set out in supporting Schedule 7, Form 1305, which is required to be submitted in duplicate;

(d) Each entry to Schedule 7 except those representing exports in equipment owned and operated or completely controlled by the dealer is to be supported by a properly executed certificate of exportation; and

(e) For complete instructions relative to claiming such exemptions and to executing export certificates, see OAR 735-170-0050 through 735-170-0070.

(10) Schedule 8, Form 1305, shall state the number of gallons of motor vehicle fuel and aircraft fuel sold or distributed ex-tax within Oregon to the Armed Forces of the United States for use in ships, aircraft or for exportation.

(11) Schedule A, Form 1306, shall state the number of gallons of motor vehicle fuel and aircraft fuel sales returned to plants in Oregon, when the Oregon tax is not refunded to the purchaser:

(a) Enter on this schedule all sales credits where the customer's refund copy of the delivery invoice is not surrendered and placed on file in the office of the dealer where the tax audit is to be made;

(b) When the number of gallons returned is less than the quantity sold and when the customer desires to make claim from the state for a refund of tax on the unreturned portion, the dealer may recover the refund copy of the delivery invoice and place it in the tax files. In such cases, a new invoice may be issued for the unreturned portion, giving reference to the original delivery date and invoice number; and

(c) When motor vehicle fuel or aircraft fuel is returned and the customer does not surrender the refund copy of the delivery invoice, the dealer receiving the returned product may obtain permission from the Financial Services Branch of the Department of Transportation to allow said customer credit for the tax without recovering the refund copy of the delivery invoice, after furnishing information showing:

(A) Name and address of the customer;

(B) Name or location of the distributing station making the sale;

(C) Date and number of the delivery notice;

(D) Gallons delivered; and

(E) Gallons returned.

(12) Schedule B, Form 1309, shall state the net number of gallons of motor vehicle fuel and aircraft fuel sold or distributed ex-tax within Oregon to the Armed Forces of the United States for use in ships, aircraft, or for exportation:

(a) Use this schedule for claiming exemption for tax when motor vehicle fuel or aircraft fuel is sold by the dealer to the Armed Forces of the United States for use in ships, aircraft or for exportation;

(b) Tax exemption may be claimed on this schedule for such sales when the vendor is other than a licensed dealer, provided a properly executed exemption certificate (Form 1338) is completed at the time of sale and is placed on file in the tax reporting office of the dealer making claim for tax exemption;

(c) Tax exemption may be claimed on this schedule for aircraft fuel sold in Oregon by other than a licensed dealer to the Armed Forces of the United States for use in aircraft provided exemption certificate Form 1338 is obtained at time of sale;

(d) Each entry to Schedule B is to be supported by a properly executed exemption certificate, (Form 1338); and

(e) For more complete instructions relative to claiming tax exemptions for such sales and to executing exemption certificates, see OAR 735-170-0080 through 735-170-0090.

(13) Schedule C, Form 1306, shall be used to make debit adjustments to taxable distribution entered on stock summary schedule of the previous reports, for making adjustments of audit charges, and other miscellaneous corrections. However, entries which reverse, cancel, or correct transactions which are normally reported on Schedule 1 through 8, or A, B, or D of the tax reports shall be made on the respective schedule to which they relate.

(14) Schedule D, Form 1306, shall be used for claiming miscellaneous tax exemptions and for making credit adjustments to taxable distribution entered on the Stock Summary schedule of previous reports, for adjusting audit credits, for claiming tax exemption for non-highway use, and other miscellaneous corrections or deductions. However, entries which reverse, cancel, or correct transactions which are normally reported on Schedule 1 through 8 or A, B, or C of the tax reports should be made on the respective schedule to which they relate.

Stat. Auth.: ORS 319.010 - ORS 319.880, ORS 802.010 & Ch. 664, OL 1989
Stats. Implemented: ORS 319.390 & ORS 319.400
Hist.: MV 22, f. 2-15-63; MV 24, f. 8-22-63, ef. 9-22-63; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0110; MV 49-1989, f. 11-16-89, cert. ef. 1-1-90

735-170-0040

Tax Report Filing Dates

A tax report must be filed for each calendar month. The report is to be filed not later than the 25th day of the succeeding calendar month. However, when the due date falls on a Saturday, a Sunday, or any legal holiday, the report may be filed on the next business day without penalty.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010
Stats. Implemented: ORS 319.190
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

Exports

735-170-0050

Transactions Which May Be Classed as Export Sales

Transactions which may be classed as export sales consist of:

(1) Motor vehicle fuel actually and in fact exported and delivered to customers at points outside the State of Oregon by means of equipment owned and operated or completely controlled by the Oregon licensed dealer. No exportation certificate is required for these sales.

(2) Motor vehicle fuel sold by a dealer as provided in ORS 319.240(b). These sales shall be supported by a Certificate of Exportation, Form A, 1317.

(3) Motor vehicle fuel delivered by the Oregon licensed dealer to a rail, motor, or other "carrier" not owned, managed, or controlled by the consignee, or an officer or officers of the consignee, in case the consignee is a corporation, for transportation to a destination outside of the State of Oregon; provided, that the terms of the shipping contract definitely establish that the said Oregon licensed dealer actually and in fact retains title to and control over said fuel until actual delivery to its destination outside of the State of Oregon. These sales shall be supported by a Certificate of Exportation, Form B, 1318.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010
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

735-170-0060

Export Certificate Requirements

(1) In support of claims on account of exportation of motor vehicle fuel from the State of Oregon by purchasers as provided in OAR 735-170-0050(2), every dealer shall:

(a) Complete a Certificate of Exportation Form A, 1317, in triplicate properly signed by the purchaser;

(b) The certificate shall be completed and signed at the time of sale;

(c) The original and duplicate copies shall accompany the dealer's Oregon motor vehicle fuel license tax report wherein tax exemption is claimed; and

(d) The triplicate copy is to be retained in the dealer's tax files for a period of three years.

(2) In support of claims on account of exportation of motor vehicle fuel from the State of Oregon provided in OAR 735-170-0050(3), every dealer shall:

(a) Complete a Certificate of Exportation Form B, 1318;

(b) The certificates shall be filed in the principal office of the dealer within three months after the close of the calendar month during which the shipments were made, unless a request for extension of time has been made and approved;

(c) The duplicate copies of Form B certificates shall be filed in the principal office of the dealer; and

(d) The original copies of Form B certificates shall be filed with the Financial Services Branch of the Department of Transportation of the State of Oregon on or before the tenth day of the fourth month following the calendar month during which the shipment is made.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010
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 735-011-0210

735-170-0070

Special Requirements Relating to Reporting and Recording Export Sales

(1) Motor vehicle fuel sold by Oregon licensed dealers to other Oregon licensed dealers, the destinations of which shipments are points outside the State of Oregon, should be reported on Schedule 6 of the tax report and need not be supported by certificates of exportation. Oregon licensed dealers purchasing such fuels shall report the exportation from Oregon of the same on Schedule 7 of the monthly tax report whenever the delivery is to any person or location other than to themselves and to their own storage facilities.

(2) Stock transfers of motor vehicle fuels consigned and delivered to the dealer's own storage facilities located in other states or countries need not be supported by a certificate of exportation but must be listed on Schedule 7 of the monthly tax report.

(3) Sales or other deliveries of motor vehicle fuel made from stock located within the State of Oregon must be reported as Oregon distribution and supported by exportation certificates if:

(a) The sales or deliveries are consigned or shipped to points outside the State of Oregon; and

(b) The invoicing or billing is transferred to locations or offices located in other states.

(4) All export sales for which tax exemption is claimed shall be reported on Schedule 7 of the monthly tax report.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.240 & ORS 319.270
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 735-011-0215

Sales to U. S. Armed Forces

735-170-0080

Sales to the Armed Forces of the U.S. — Tax Exempt Under Certain Conditions

(1) Motor vehicle fuel or aircraft fuel can be sold Oregon tax exempt to the Armed Forces of the United States as provided in ORS 319.250.

(2) Sales for use in aircraft shall include fuel placed in the fuel tank of an aircraft to be operated by the Armed Forces or into bulk storage facilities maintained exclusively by the Armed Forces for the purpose of fueling aircraft.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.250

Hist.: MV 22, f. 2-15-63; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0250

735-170-0090

Exemption Certificates

(1) Every sale or delivery to the Armed Forces of the United States upon which tax exemption is claimed must be supported by Exemption Certificate Form 1338 supplied by the Financial Services Branch of the Department of Transportation.

(2) In order to obtain exemption from the tax, Form 1338 must be completed and signed at the time of sale and delivery. Whenever the vendor is other than an Oregon licensed dealer, the Form 1338 may be turned over to a dealer for credit and for inclusion with the dealer's monthly tax report. All Form 1338 certificates shall be placed on file in the dealer's office where the tax audit is to be made.

(3) All claims for tax exemption are to be entered on Schedule 8, Form 1305, and on Schedule B, Form 1309, of the monthly tax report.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

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

Fuel Lost or Destroyed

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 shall be included in the taxable distribution section of the monthly tax report, Form 1302. When a carrier or person responsible for lost motor vehicle or aircraft fuel furnishes acceptable documentary proof of actual loss, credit for the Oregon tax may be taken on Form 1302. Acceptable documentary proof of the loss, as described in section (2) of this rule, must be submitted to the Financial Services Branch of the Department of Transportation (Branch) for approval. After approval by the Branch, the documents shall be filed with the accounting records in the dealer's office where the tax audit is to be made. Credits for approved losses shall be reported on Schedule D of the monthly tax report. If the carrier or other person being invoiced is licensed as a dealer, the loss shall be reported on Schedule 6.

(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 shall be supplied; or

(c) A signed statement by a State Police officer or other person witnessing the accident or mishap, which:

(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 shall be supplied.

(3) Losses which occur through accident or mishap to the dealer's own equipment shall 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 shall include the details required by subsection (2)(a) of this rule. This statement shall 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 which are directly connected by means of a pipe line to retail service station pumps, or fuel over which the licensed dealer no longer retains complete control; or

(b) Fuel claimed to have been lost from spillage, leaky valves, loose connections, unloading mishaps, leaky or defective storage tanks, etc., 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 shall be included in the computation of the license tax.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.010

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

DIVISION 174

FUEL TAX REFUNDS AND PENALTIES

735-174-0000

General Provisions for Fuels Tax Refunds

(1) Motor Vehicle Fuel — Gasoline. The Oregon law provides that any person who has purchased motor vehicle fuel and who has paid any tax, either directly or indirectly, levied under the provisions of ORS 319.010 through 319.430, shall be entitled to a refund when such motor vehicle fuel is exported from the state (under certain conditions) or is used by the claimant for certain purposes. To obtain the refund, the claim must be filed within the prescribed time limits in ORS 319.290 on forms supplied by the Financial Services Branch of the Department of Transportation. The claim must be accompanied by the original invoices showing purchase of the fuel.

(2) Special fuels — Diesel Oil, Propane, etc. Use Claim Form 1200. The Oregon Use Fuel Tax Law, ORS 319.510 through 319.880 also authorizes refund of any tax paid in the same manner and subject to substantially the same conditions as is provided for gasoline. Vehicles subject to, and for which operators report and pay mileage taxes to the Oregon Public Utility Commissioner in accordance with the weight group rates prescribed in ORS 767.815 through 767.825, are exempt from the use fuel tax and, because no tax is paid, a refund of tax is not applicable.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.280, ORS 319.320 & ORS 319.831

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0701

735-174-0010

Tax Refunds on the Use of Gasoline and Other Motor Vehicle Fuels

(1) General Use and Export Claims, Form 1200, shall be used for all claims for export or refundable use defined in ORS 319.280 and 319.320.

(2) Aircraft Fuel Use. Form 1203 shall be used for all claims for fuel used in aircraft. Most sellers of aircraft fuel are licensed to acquire and to sell such fuel including only the rates of tax applicable to aircraft fuel provided in ORS 319.020(2). These rates of tax are not refundable except as provided in ORS 319.330.

(3) Licensed Dealer Claims. Instead of filing refund claims, a licensed dealer in motor vehicle fuel may enter the gallons of motor vehicle fuel on Schedule D of the monthly report and payment of tax. In doing so, all requirements pertaining to refund claims must be complied with.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.280 & ORS 319.330

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 33, f. 9-12-67, ef. 9-13-67; MV 48, f. 10-5-72, ef. 10-15-72; MV 53, f. 2-20-74, ef. 3-11-74; MV 4-1980, f. & ef. 3-4-80; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0706

735-174-0020

Records and Invoice Requirements

(1) The law requires a claimant to keep records sufficient to substantiate the accuracy of a claim. Failure of the claimant to maintain required records or to allow examination of them constitutes a waiver of all rights to the refund.

(2) The following rules shall govern records maintained to support refund claims:

(a) Highway and Non-Highway Use of Fuel from Common Storage. Fuel purchased and delivered into bulk storage for use in vehicles on public roads and for non-highway use, must be fully accounted for by detail withdrawal records to accurately show the manner in which used. This record must be available for inspection upon request by the Financial Services Branch of the Department of Transportation (Branch). Any fuel on hand (by actual measurement) should be deducted from a claim and should be reported as an opening inventory on the next claim. Credit for the inventory will be allowed on the next claim if it is filed within 15 months from the filing date of the claim which established the inventory. All invoices for the total fuel purchased must be submitted with each claim. (For an exception see subsection (2)(g) of this rule.) Gasoline Consumption Report, Form 1223, is available upon request for recording fuel withdrawn from bulk storage;

(b) Highway and Non-Highway Use of Fuel from Separate Storage. If separate storage tanks are maintained for non-highway use and for public road use the invoices should be so marked, at the time of delivery, to identify the storage into which the fuel was delivered and no further detail record will be required. Inventories must be reported and all invoices submitted. *Fuel may not be used* from the "non-highway" tank for licensed vehicles. To do so invalidates this method of determining refundable gallonage;

(c) Use of Fuel from Restricted Use Storage. Special storage facilities in the woods, or in farm fields, or for other uses for certain periods, should be identified and explained. If such storage is used entirely for non-highway purposes (not including licensed vehicles) no record will be required, other than purchase invoices showing delivery into such storage. Inventory at end of claim period should be reported;

(d) Fuel Purchased for Other than Bulk Storage. Fuel purchased in small containers for non-highway use only (boats, tractors, etc.) should be so identified on the purchase invoice and no further record will be required;

(e) Resellers. Service Stations, marinas, etc., must prepare a separate and complete invoice for each withdrawal of fuel for their own use upon which a refund is to be claimed, or a detailed withdrawal record must accompany the claim supported by sufficient purchase invoices to cover gallons claimed. Refund cannot be paid to vendors on sales to others;

(f) Proof of Highway Use. When no highway use deduction is made from invoices attached to the claim, claimant should be prepared to show additional invoices or other proof of purchase of public road fuel upon request of the Branch;

(g) Persons claiming tax refund on fuel exported to another state in the fuel supply tank of a motor vehicle are not required to attach fuel purchase invoices to the claim:

(A) All such claims must be accompanied by evidence of payment of tax to another state and information for each vehicle showing the source of all fuel used, the total number of miles traveled, and the miles traveled in each state;

(B) When all vehicles operated are similar in size, fleet totals may be used instead of individual vehicle information.

(h) A person or agency, other than a farmer, who operates a motor vehicle on and off the public highway may claim a refund of the Oregon tax on the fuel used to operate the vehicle as is designated in ORS 319.320(1). The refund can be approved only if the claimant has maintained the following records:

(A) The total miles operated on and off the public highways;

(B) The total gallons of fuel used in the vehicles; and

(C) The source of the fuel used in the vehicle.

(i) On claims covering the operation of motor vehicles entirely over roads or property subject to refund, no record will be required other than that necessary to show source and number of gallons of fuel used;

(j) A farmer, as defined by ORS 319.320(4), may claim a refund of the tax on that fuel which is used in a licensed motor vehicle, for farm purposes, when operating over roads or property in private ownership, if required records are maintained. All such claims must be supported by the following information:

(A) The total number of highway miles operated by each licensed motor vehicle, including private passenger cars;

(B) Total gallons of fuel used in each vehicle. To include both refund and non-refund use;

(C) Purchase invoices supporting all fuel handled through bulk storage, as well as all fuel purchased at service stations, or received from other sources. Highway use for each vehicle may be determined by actual measurement, or may be computed by dividing the average miles per gallon highway operation consumption rate into the number of highway miles operated.

(3) Requirements covering invoices submitted in support of fuel tax refund claims:

(a) Each invoice submitted with a claim must be the original issued at the time of purchase, (cumulative invoices, statements, or receipts are not acceptable). In extenuating circumstances the Branch shall accept copy invoices. Each copy must bear a statement signed by the dealer, that it is a true copy of the original. In all cases the reason for use of copy invoices must be given;

(b) Each invoice must show the following:

(A) Complete date of sale; month, day, and year;

(B) Name and complete address of seller (city and state);

(C) Purchaser's name (Cash, boat number, etc., will not qualify);

(D) Kind of fuel and number of gallons purchased (Gasoline, pressure appliance fuel, etc.).

(c) The seller shall void any invoice on which an error has been made. If correction of an invoice is necessary, it should be marked "void," and a new invoice must be issued showing the number and date of the voided or replaced invoice. Both invoices must be submitted with the claim, except when the seller is a licensed dealer in motor vehicle fuel. In that case the voided invoice should be placed on file in the dealer's office where the periodical tax audit is to be made;

(d) The original invoice shall be returned to the supplier when fuel is returned for credit. When only a portion of the fuel covered by an invoice is returned and claim for refund of tax is to be made on the unreturned portion, the invoice shall be returned to the seller and a new invoice obtained for the unreturned gallons. The new invoice shall show reference to the number and date of the surrendered invoice.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.280

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 25, f. 8-3-65; MV 13-1986, f. & ef. 9-2-86; MV 7-1988, f. & cert. ef. 2-29-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0716

735-174-0030

Rules and Special Requirements for Fuel Tax Refunds

(1) Signatures Required on Refund Claims:

(a) Individuals must sign their own claims;

(b) A partnership claim may be signed by any one of the partners;

(c) Claims of business firms or corporations must be signed by an authorized agent;

(d) Accountants and other persons assisting in preparation of claims must also sign in the space provided.

(2) Normally the "Buyer and User" is the person entitled to the refund and is the person or firm named on the invoice. Claims should be made out in the same name as that shown on the invoices. If it is desired to have a claim paid in a name differing from that shown on the purchase invoice, attach a letter of authorization signed by the person to whom the invoice was issued.

(3) Power take-off fuel use in motor vehicles as described in ORS 319.280:

(a) This refund formula in ORS 319.280(2)(b) does not apply to garbage trucks with power take-off which operates only a dump box, hoist, or other type of lift;

(b) Claims must be accompanied by valid purchase invoices to cover the total gallons of motor vehicle fuel (gasoline) purchased. Service station purchase invoices should identify each vehicle by showing the vehicle license plate number;

(c) When gasoline is drawn from the claimant's bulk storage, a detailed record must be kept of all withdrawals, together with beginning and ending inventories, so that a complete accounting may be made of all fuel handled;

(d) A summary, showing beginning inventory, receipts, withdrawals, loss or gain, and ending inventory, is to be shown on the claim form in the space provided;

(e) Claimant must also maintain records to show the total gallons of gasoline used in each vehicle and the total miles operated by each vehicle;

(f) Claimants who operate petroleum delivery trucks must maintain records to show the total gallons of petroleum products pumped by each vehicle using power take-off equipment, together with supporting delivery meter readings;

(g) Each such refund claim is to be made on Fuels Tax Refund Claim, Form 1200, and must be accompanied by Work Sheet, Form 1200-A. This will be in addition to schedules or work sheets required for other refundable use or equipment.

(4) Auxiliary Engines. Fuel used in an auxiliary engine mounted on a licensed motor vehicle (ready-mix concrete, refrigeration or air conditioning units, etc.), is considered refundable use if fuel for the auxiliary engine is supplied from a fuel tank, other than the fuel tank which supplies the engine propelling the vehicle. Estimates of refundable use do not qualify for refund. When separate fuel tanks are used, a record of the gallons of fuel delivered into each tank must be kept and purchase invoices covering both tanks must accompany the claim.

(5) Use or disposition of fuel which is not subject to refund:

(a) Fuel sold, lost, destroyed, stolen, or given away;

(b) Fuel used with respect to which no tax has been paid to the State of Oregon;

(c) Fuel used to operate motor vehicles upon public highways with certain exceptions;

(d) Fuel used to operate licensed motor vehicles upon both refundable and nonrefundable roads or property where complete mileage and fuel records required by law and administrative rule are not maintained;

(e) Fuel used in snowmobiles.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.280

Hist.: MV 24, f. 8-22-63, ef. 9-2-63; MV 26, f. 12-8-65; MV 42, f. 8-15-69; MV 45, f. 8-12-70, ef. 9-11-70; MV 53, f. 2-20-74, ef. 3-11-74; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0725

735-174-0040

Tax Refunds on Use of Gasoline and Other Motor Vehicle Fuels in Motor Boats

(1) The refund of tax on fuel used in motor boats is limited to boats used for commercial purposes.

(2) The Financial Services Branch of the Department of Transportation (Branch) shall consider the use of fuel in motor boats for commercial purposes to include the following:

- (a) Commercial fishing;
- (b) Charter boat operations;
- (c) Log pond operations;
- (d) Mail boat operations;
- (e) Tourist boat operations;
- (f) Any other type of operation which the Branch may determine to be commercial use.

Stat. Auth.: ORS 319.280 & ORS 802.010

Stats. Implemented: ORS 319.280

Hist.: MV 20-1985, f. 12-30-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-011-0735

735-174-0050

Motor Vehicle Fuel Tax Waiver of Late Payment Penalties

(1) ORS 319.180(4) allows the Financial Services Branch of the Department of Transportation (Branch) to waive penalties for late payment of motor vehicle fuel tax.

(2) Any entity or a person may submit a written request for waiver of late payment penalties to the Branch.

(3) Upon receipt of a written request for waiver of late payment penalties, the Branch shall use the following criteria to determine if there was reasonable cause for the late payment and no intent on the part of the taxpayer to avoid payment:

- (a) Timely filing of past tax reports and tax payments by the licensee;
- (b) Accuracy of past tax reports by the licensee;
- (c) Audit findings of prior audits conducted upon licensee; and
- (d) Any other criteria the Branch may find to be informative and appropriate.

Stat. Auth.: ORS 319.180, ORS 802.010 & Ch. 610, OL 1987

Stats. Implemented: ORS 319.180

Hist.: MV 37-1987, f. 12-7-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0745

735-174-0060

Motor Vehicle Fuel Tax Credit of Interest on Tax Overpayments

(1) The Financial Services Branch of the Department of Transportation may allow interest credit for overpayments of motor vehicle fuel tax up to the amount of interest paid for underpayments of tax during any given audit period.

(2) For purposes of ORS 319.180(5)(b) and this rule, "any given audit period" means the time period from the last day of the immediate prior audit period up to the present. If there is no prior audit, "any given audit period" shall mean a period not to exceed three years from the current date.

(3) Any interest payments made on underpayments of tax from a prior audit period shall not be:

- (a) Considered as interest on overpayments in the current audit period; or

- (b) Subject to credit under ORS 319.180(5)(b).

Stat. Auth.: ORS 319.180, ORS 802.010 & Ch. 610, OL 1987

Stats. Implemented: ORS 319.180

Hist.: MV 37-1987, f. 12-7-87, ef. 1-1-88; Administrative Renumbering 3-1988, Renumbered from 735-011-0755

DIVISION 176

USE FUEL TAX

Taxing the Use of Combustible Gas, Liquid, or Material Except Motor Vehicle Fuel (Gasoline)

735-176-0000

Definitions

"User" or "user of fuel in a motor vehicle" as used in ORS 319.510 through 319.880 and OAR chapter 735, division 176, means a person as defined in ORS 319.520(7) who uses fuel in a motor vehicle as defined in ORS 319.520(10). "User" or "user of fuel in a motor vehicle" shall also include, but not be limited to, a lessor who

allows a motor vehicle to operate on the highways of this state and allows the lessee to use fuel in that motor vehicle.

Stat. Auth.: ORS 319.010 - ORS 319.880 & ORS 802.010

Stats. Implemented: ORS 319.510 thru ORS 319.880

Hist.: MV 22, f. 2-15-63; MV 4-1980, f. & ef. 3-4-80; MV 24-1981, f. 10-30-81, ef. 11-1-81; MV 3-1982, f. & ef. 1-4-82; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-012-0010

735-176-0010

Use Fuel Seller Requirements

(1) Seller License. Sellers of fuel who do not sell for use in a motor vehicle are not required to be licensed. They must, however, maintain records of fuel manufactured, purchased, handled, and distributed or sold and must preserve them for three years.

(2) Collecting Tax on Sales.

(a) Persons who sell fuel into the fuel tanks of motor vehicles shall collect the Oregon tax at the time of sale except for sales into:

(A) Vehicles displaying a valid Oregon P.U.C. permit or pass;

(B) Vehicles displaying a valid use fuel vehicle emblem issued by the Financial Services Branch of the Department of Transportation;

(C) Vehicles displaying a United States Government license plate;

(D) Farm tractors or other agricultural implements only incidentally operated on the highway as defined in ORS 319.520(6); and

(E) Cans, barrels, or containers other than the fuel supply tank of a motor vehicle.

(b) If the tax is not collected, the seller shall show the U.S. Government plate number, P.U.C. permit or pass number, use fuel emblem number or delivery into farm equipment, can or barrel on the sales invoice.

(3) Record Requirements. Every seller of fuel for use in a motor vehicle shall maintain and keep records for a period of three years as follows:

(a) A purchase journal or other record of fuel received supported by purchase invoices;

(b) A stock summary of all bulk fuel storage showing the gallons of fuel handled during each month with an analysis as to inventories, receipts, sales, use, transfers, and loss or gain;

(c) A physical inventory of bulk fuel storage shall be recorded at least at the end of each month and preserved for audit purposes;

(d) A record shall be kept of each sale or other withdrawal of fuel from bulk storage. An invoice is not required to be prepared for fuel delivered into the fuel tank of a vehicle with a combined gross weight of 26,000 pounds or less, for which the tax is paid at the time of sale, unless the operator of the vehicle requests an invoice; and

(e) Invoices upon which tax collections are recorded shall be kept separate and apart from other sales invoices.

Stat. Auth.: ORS 319.010 - ORS 319.880, ORS 802.010 & Ch. 992, OL 1989

Stats. Implemented: ORS 319.621, ORS 319.665 & ORS 319.697

Hist.: MV 22, f. 2-15-63; MV 24, f. 8-22-63, ef. 9-2-63; MV 48, f. 10-5-72, ef. 10-15-72; MV 4-1980, f. & ef. 3-4-80; MV 23-1981, f. 10-30-81, ef. 11-1-81; MV 13-1986, f. & ef. 9-2-86; Administrative Renumbering 3-1988, Renumbered from 735-012-0010; MV 49-1989, f. 11-16-89, cert. ef. 1-1-90

735-176-0020

Use Fuel User Requirements

(1) License Requirements:

(a) Persons who use "fuel" in a motor vehicle, except those excluded in OAR 735-176-0000 must first apply for and obtain a user license and a vehicle emblem for each vehicle;

(b) User licenses are issued on a permanent or on a temporary basis as required and are generally issued without a faithful performance bond;

(c) Emblems are issued for specific vehicles on an annual basis or for temporary periods up to 30 days; and

(d) The law imposes a mandatory penalty of 25 percent of the tax for using fuel without first obtaining a valid license or vehicle emblem.

(2) Record Requirements. Every user of fuel, except those who operate a vehicle with a light weight of 8,000 pounds or less shall maintain and keep the following records:

(a) A purchase journal or other record of “fuel” received supported by purchase invoices;

(b) A record of the number of miles traveled over Oregon “highways”;

(c) If fuel is purchased in bulk, a stock summary of “fuel” handled during each month with an analysis as to inventories, receipts, sales, use, transfers, and loss or gain;

(d) If fuel is stored in bulk, a physical inventory shall be taken at least at the end of each month and preserved for audit purposes;

(e) All required records shall be kept within the State of Oregon and preserved for a period of three years; and

(f) In the event the auditor for the state is, at any time, required to be outside of Oregon in order to examine such records, it will be required that the licensee reimburse the state for travel expense, including transportation, meals, and lodging costs incurred by said auditor.

(3) Tax Reports:

(a) Every licensed user of fuel who operates a vehicle which is subject to the Use Fuel Tax Law is required to file a monthly report of miles operated and fuel used, except that:

(A) Users with a monthly tax obligation of less than \$300 are authorized to file quarterly reports; and

(B) Licensed users who operate a vehicle of 8,000 pounds light weight or less may file an annual report. Users of fuel in this classification may keep an accurate record of Oregon highway miles operated and compute the gallons of fuel used by applying a reasonable miles per gallon figure.

(b) Licensed users who have paid any Oregon tax on fuel purchased from Oregon sellers of fuel should detail such purchases in Schedule 2 of the tax report form and treat such transactions as credits against their total tax liability;

(c) Tax report due dates are as follows: